

By the Committee on Commerce and Tourism; and Senator Brandes

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1 A bill to be entitled
2 An act relating to secondary metals recyclers;
3 providing for a type two transfer of the regulation of
4 secondary metals recyclers from the Department of
5 Revenue to the Department of Agriculture and Consumer
6 Services; amending s. 213.05, F.S.; repealing
7 provision that requires that the Department of Revenue
8 regulate the registration of secondary metals
9 recyclers; amending s. 213.053, F.S.; authorizing the
10 Department of Revenue to share specified information
11 with the Department of Agriculture and Consumer
12 Services; conforming provisions to changes made by the
13 act; amending s. 319.30, F.S.; redefining the term
14 "certificate of registration number"; amending s.
15 538.18, F.S.; redefining terms; amending s. 538.19,
16 F.S.; requiring the Department of Agriculture and
17 Consumer Services, rather than the Department of Law
18 Enforcement, to approve the form of certain records
19 maintained by secondary metals recyclers; amending s.
20 538.20, F.S.; authorizing investigators of the
21 Department of Agriculture and Consumer Services to
22 inspect regulated metals property and records of
23 secondary metals recyclers; amending s. 538.21, F.S.;
24 clarifying a provision of law; amending s. 538.23,
25 F.S.; providing criminal penalties for specified
26 prohibited acts and practices; amending s. 538.25,
27 F.S.; revising required application information for a
28 secondary metals recycler registration; requiring that
29 a secondary metals recycler maintain certain insurance

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30 coverage throughout the registration period; requiring
31 that certain applicants for a secondary metals
32 recycler registration be fingerprinted by certain
33 agencies, entities, or vendors; requiring such
34 agencies, entities, or vendors to submit a complete
35 set of the applicant's fingerprints to the Department
36 of Law Enforcement for state processing; requiring the
37 Department of Law Enforcement to forward the
38 applicant's fingerprints to the Federal Bureau of
39 Investigation for national processing; providing that
40 fees for fingerprint processing and retention be borne
41 by the applicant; providing for retention of the
42 fingerprints; requiring the department to notify the
43 Department of Law Enforcement of certain individuals
44 who are no longer registered as secondary metals
45 recyclers; requiring the department to screen results
46 of background checks; increasing registration and
47 renewal fees; requiring that fees be deposited into
48 the General Inspection Trust Fund, rather than the
49 Operating Trust Fund; requiring a secondary metals
50 recycler to allow personnel of the Department of
51 Agriculture and Consumer Services to inspect a
52 registration at the listed place of business;
53 providing remedies to the Department of Agriculture
54 and Consumer Services if a secondary metals recycler
55 fails to allow such inspection; repealing certain
56 civil fines; revising criteria to deny or revoke a
57 registration as a secondary metals recycler; providing
58 for immediate suspension of an application for

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59 registration or a registration if the applicant or
60 registrant, or an owner, officer, director, or trustee
61 of an applicant or registrant is convicted of certain
62 felonies; conforming provisions to changes made by the
63 act; amending s. 538.26, F.S.; prohibiting a secondary
64 metals recycler from purchasing or allowing any person
65 to purchase certain metals on a Sunday; revising the
66 list of regulated metals subject to certain purchase
67 restrictions; creating s. 538.27, F.S.; providing
68 administrative penalties; specifying administrative
69 procedures; providing for the collection of
70 administrative fines; creating s. 538.29, F.S.;
71 authorizing the Department of Agriculture and Consumer
72 Services to adopt certain rules and forms; providing
73 an appropriation; providing an effective date.

74

75 Be It Enacted by the Legislature of the State of Florida:

76

77 Section 1. All powers; duties; functions; records;
78 personnel; property; pending issues and existing contracts;
79 administrative authority; administrative rules; and unexpended
80 balances of appropriations, allocations, and other funds for the
81 regulation of secondary metal recyclers are transferred by a
82 type two transfer, as defined in s. 20.06(2), Florida Statutes,
83 from the Department of Revenue to the Department of Agriculture
84 and Consumer Services.

85 Section 2. Section 213.05, Florida Statutes, is amended to
86 read:

87 213.05 Department of Revenue; control and administration of

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88 revenue laws.—The Department of Revenue shall have only those
89 responsibilities for ad valorem taxation specified to the
90 department in chapter 192, taxation, general provisions; chapter
91 193, assessments; chapter 194, administrative and judicial
92 review of property taxes; chapter 195, property assessment
93 administration and finance; chapter 196, exemption; chapter 197,
94 tax collections, sales, and liens; chapter 199, intangible
95 personal property taxes; and chapter 200, determination of
96 millage. The Department of Revenue shall have the responsibility
97 of regulating, controlling, and administering all revenue laws
98 and performing all duties as provided in s. 125.0104, the Local
99 Option Tourist Development Act; s. 125.0108, tourist impact tax;
100 chapter 198, estate taxes; chapter 201, excise tax on documents;
101 chapter 202, communications services tax; chapter 203, gross
102 receipts taxes; chapter 206, motor and other fuel taxes; chapter
103 211, tax on production of oil and gas and severance of solid
104 minerals; chapter 212, tax on sales, use, and other
105 transactions; chapter 220, income tax code; ss. 336.021 and
106 336.025, taxes on motor fuel and special fuel; s. 376.11,
107 pollutant spill prevention and control; s. 403.718, waste tire
108 fees; s. 403.7185, lead-acid battery fees; s. 538.09,
109 registration of secondhand dealers; ~~s. 538.25, registration of~~
110 ~~secondary metals recyclers~~; s. 624.4621, group self-insurer's
111 fund premium tax; s. 624.5091, retaliatory tax; s. 624.475,
112 commercial self-insurance fund premium tax; ss. 624.509-624.511,
113 insurance code: administration and general provisions; s.
114 624.515, State Fire Marshal regulatory assessment; s. 627.357,
115 medical malpractice self-insurance premium tax; s. 629.5011,
116 reciprocal insurers premium tax; and s. 681.117, motor vehicle

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117 warranty enforcement.

118 Section 3. Subsection (1), paragraph (p) of subsection (8),
119 and subsection (11) of section 213.053, Florida Statutes, are
120 amended to read:

121 213.053 Confidentiality and information sharing.—

122 (1) This section applies to:

123 (a) Section 125.0104, county government;

124 (b) Section 125.0108, tourist impact tax;

125 (c) Chapter 175, municipal firefighters' pension trust
126 funds;

127 (d) Chapter 185, municipal police officers' retirement
128 trust funds;

129 (e) Chapter 198, estate taxes;

130 (f) Chapter 199, intangible personal property taxes;

131 (g) Chapter 201, excise tax on documents;

132 (h) Chapter 202, the Communications Services Tax

133 Simplification Law;

134 (i) Chapter 203, gross receipts taxes;

135 (j) Chapter 211, tax on severance and production of
136 minerals;

137 (k) Chapter 212, tax on sales, use, and other transactions;

138 (l) Chapter 220, income tax code;

139 (m) Section 252.372, emergency management, preparedness,
140 and assistance surcharge;

141 (n) Section 379.362(3), Apalachicola Bay oyster surcharge;

142 (o) Chapter 376, pollutant spill prevention and control;

143 (p) Section 403.718, waste tire fees;

144 (q) Section 403.7185, lead-acid battery fees;

145 (r) Section 538.09, registration of secondhand dealers;

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146 ~~(s) Section 538.25, registration of secondary metals~~
 147 ~~recyclers;~~
 148 (s)~~(t)~~ Sections 624.501 and 624.509-624.515, insurance
 149 code;
 150 (t)~~(u)~~ Section 681.117, motor vehicle warranty enforcement;
 151 and
 152 (u)~~(v)~~ Section 896.102, reports of financial transactions
 153 in trade or business.

154 (8) Notwithstanding any other provision of this section,
 155 the department may provide:

156 (p) Names, addresses, ~~and~~ sales tax registration
 157 information, and information relative to chapter 212 for
 158 purposes of enforcing s.538.235(3), to the Division of Consumer
 159 Services of the Department of Agriculture and Consumer Services
 160 in the conduct of its official duties.

161
 162 Disclosure of information under this subsection shall be
 163 pursuant to a written agreement between the executive director
 164 and the agency. Such agencies, governmental or nongovernmental,
 165 shall be bound by the same requirements of confidentiality as
 166 the Department of Revenue. Breach of confidentiality is a
 167 misdemeanor of the first degree, punishable as provided by s.
 168 775.082 or s. 775.083.

169 (11) Notwithstanding any other provision of this section,
 170 with respect to a request for verification of a certificate of
 171 registration issued pursuant to s. 212.18 to a specified dealer
 172 or taxpayer or with respect to a request by a law enforcement
 173 officer for verification of a certificate of registration issued
 174 pursuant to s. 538.09 to a specified secondhand dealer ~~or~~

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175 ~~pursuant to s. 538.25 to a specified secondary metals recycler,~~
 176 the department may disclose whether the specified person holds a
 177 valid certificate or whether a specified certificate number is
 178 valid or whether a specified certificate number has been
 179 canceled or is inactive or invalid and the name of the holder of
 180 the certificate. This subsection does ~~shall not be construed to~~
 181 create a duty to request verification of any certificate of
 182 registration.

183 Section 4. Paragraph (b) of subsection (1) of section
 184 319.30, Florida Statutes, is amended to read:

185 319.30 Definitions; dismantling, destruction, change of
 186 identity of motor vehicle or mobile home; salvage.—

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

188 (b) "Certificate of registration number" means the
 189 certificate of registration number issued by the Department of
 190 Agriculture and Consumer Services ~~Revenue of the State of~~
 191 ~~Florida~~ pursuant to s. 538.25.

192 Section 5. Subsections (2) and (7) of section 538.18,
 193 Florida Statutes, are amended to read:

194 538.18 Definitions.—As used in this part, the term:

195 (2) "Department" means the Department of Agriculture and
 196 Consumer Services ~~Revenue~~.

197 (7) "Personal identification card" means one of the
 198 following forms of identification, which must be valid and
 199 contain the individual's photograph and current address:

200 (a) A valid Florida driver license.

201 (b) A Florida identification card issued by the
 202 Department of Highway Safety and Motor Vehicles.

203 (c) A, an equivalent ~~an equivalent~~ form of identification equivalent to

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204 paragraph (a) or paragraph (b) issued by another state.

205 (d) ~~✓~~ A passport.

206 (e) ~~✓~~ An employment authorization issued by the United
207 States Bureau of Citizenship and Immigration Services ~~that~~
208 ~~contains an individual's photograph and current address.~~

209 Section 6. Subsections (1) through (3) of section 538.19,
210 Florida Statutes, are amended to read:

211 538.19 Records required; limitation of liability.—

212 (1) A secondary metals recycler shall maintain a legible
213 paper record of all purchase transactions to which such
214 secondary metals recycler is a party. A secondary metals
215 recycler shall also maintain a legible electronic record, in the
216 English language, of all such purchase transactions. The
217 appropriate law enforcement official may provide data
218 specifications regarding the electronic record format, but such
219 format must be approved by the department ~~of Law Enforcement~~. An
220 electronic record of a purchase transaction shall be
221 electronically transmitted to the appropriate law enforcement
222 official no later than 10 a.m. of the business day following the
223 date of the purchase transaction. The record transmitted to the
224 appropriate law enforcement official must not contain the price
225 paid for the items. A secondary metals recycler who transmits
226 such records electronically is not required to also deliver the
227 original or paper copies of the transaction forms to the
228 appropriate law enforcement official. However, such official
229 may, for purposes of a criminal investigation, request the
230 secondary metals recycler to make available the original
231 transaction form that was electronically transmitted. This
232 original transaction form must include the price paid for the

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233 items. The secondary metals recycler shall make the form
234 available to the appropriate law enforcement official within 24
235 hours after receipt of the request.

236 (2) The following information must be maintained on the
237 form approved by the department ~~of Law Enforcement~~ for each
238 purchase transaction:

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

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

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

243 (d) The weight, quantity, or volume, and a description of
244 the type of regulated metals property purchased in a purchase
245 transaction.

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

248 (f) A signed statement from the person delivering the
249 regulated metals property stating that she or he is the rightful
250 owner of, or is entitled to sell, the regulated metals property
251 being sold. If the purchase involves a stainless steel beer keg,
252 the seller must provide written documentation from the
253 manufacturer that the seller is the owner of the stainless steel
254 beer keg or is an employee or agent of the manufacturer.

255 (g) The distinctive number from the personal identification
256 card of the person delivering the regulated metals property to
257 the secondary metals recycler.

258 (h) A description of the person from whom the regulated
259 metals property was acquired, including:

260 1. Full name, current residential address, workplace, and
261 home and work phone numbers.

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

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

265 4. Vehicle description to include the make, model, and tag
266 number of the vehicle and trailer of the person selling the
267 regulated metals property.

268 5. Any other information required by the form approved by
269 the department ~~of Law Enforcement~~.

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

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

275 (3) A secondary metals recycler complies with the
276 requirements of this section if it maintains an electronic
277 database containing the information required by subsection (2)
278 as long as the electronic information required by subsection
279 (2), along with an electronic oath of ownership with an
280 electronic signature of the seller of the secondary metals being
281 purchased by the secondary metals recyclers and an electronic
282 image of the seller's right thumbprint that has no smudges and
283 smears, can be downloaded onto a paper form in the image of the
284 form approved by the department ~~of Law Enforcement~~ as provided
285 in subsection (2).

286 Section 7. Section 538.20, Florida Statutes, is amended to
287 read:

288 538.20 Inspection of regulated metals property and
289 records.—During the usual and customary business hours of a
290 secondary metals recycler, a law enforcement officer or a

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291 nonsworn, trained regulatory investigator of the department
292 shall, after properly identifying herself or himself ~~as a law~~
293 ~~enforcement officer~~, have the right to inspect:

294 (1) Any and all purchased regulated metals property in the
295 possession of the secondary metals recycler, and

296 (2) Any and all records required to be maintained under s.
297 538.19.

298 Section 8. Subsection (3) of section 538.21, Florida
299 Statutes, is amended to read:

300 538.21 Hold notice.—

301 (3) A secondary metals recycler may not dispose of property
302 at any location until any holding period has expired. At the
303 expiration of the hold period or, if extended in accordance with
304 this section, at the expiration of the extended hold period, the
305 hold is automatically released and the secondary metals recycler
306 may dispose of the regulated metals property unless other
307 disposition has been ordered by a court of competent
308 jurisdiction.

309 Section 9. Subsections (1) and (3) of section 538.23,
310 Florida Statutes, are amended to read:

311 538.23 Violations and penalties.—

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

314 1. Violates s. 538.20, ~~or~~ s. 538.21, s. 538.235, or s.
315 538.26; or

316 2. Engages in a pattern of failing to keep records required
317 under ~~by~~ s. 538.19~~;~~

318 ~~3. Violates s. 538.26(2); or~~

319 ~~4. Violates s. 538.235,~~

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320
321 commits a felony of the third degree, punishable as provided in
322 s. 775.082, s. 775.083, or s. 775.084.

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

327 (3) A ~~Any~~ person who knowingly provides false information,
328 gives false verification of ownership, or who gives a false or
329 altered identification and who receives money or other
330 consideration from a secondary metals recycler in return for
331 regulated metals property commits:

332 (a) A felony of the third degree, punishable as provided in
333 s. 775.082, s. 775.083, or s. 775.084, if the value of the money
334 or other consideration received is less than \$300.

335 (b) A felony of the second degree, punishable as provided
336 in s. 775.082, s. 775.083, or s. 775.084, if the value of the
337 money or other consideration received is \$300 or more or is for
338 restricted regulated metals.

339 Section 10. Section 538.25, Florida Statutes, is amended to
340 read:

341 538.25 Registration.—

342 (1) A person may not engage in business as a secondary
343 metals recycler at any location without registering with the
344 department. To register as a secondary metals recycler, an
345 application must be submitted to the department on a department
346 prescribed form. One application is required for each secondary
347 metals recycler. An applicant must be a natural person who is at
348 least 18 years of age or a corporation that is organized or

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349 qualified to do business in this state. If the applicant is a
350 partnership, each partner must separately apply for
351 registration.

352 (a) The application must include all the following
353 information:

354 1. The full name and address of the applicant. If the
355 applicant is not a natural person, the applicant shall provide
356 the full name and address of each direct and beneficial owner of
357 at least 10 percent equity interest in the applicant. If the
358 applicant is a corporation, the applicant must also state the
359 full name and address of each officer and director. The
360 department shall accept applications only from a fixed business
361 address. The department may not accept an application that
362 provides an address of a hotel room or motel room, a vehicle, or
363 a post office box.

364 2. The address of each location where the applicant will
365 engage in business as a secondary metals recycler. The
366 department shall issue a duplicate registration for each
367 location. For purposes of subsections (3) and (4) and s. 538.27,
368 duplicate registrations are individual registrations.

369 3. If the applicant is a natural person, a complete set of
370 his or her fingerprints, certified by an authorized law
371 enforcement officer, and a copy of a valid fullface photographic
372 identification card.

373 4. If the applicant is a corporation, the name and address
374 of the corporation's registered agent for service of process in
375 the state; and a certified copy of a statement from the
376 Secretary of State declaring that the corporation is duly
377 organized in this state or, if the corporation is organized in

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378 another state, declaring that the corporation is duly qualified
379 to do business in this state.

380 5. Evidence of general liability insurance and workers'
381 compensation insurance coverage. Each secondary metals recycler
382 must maintain general liability insurance and workers'
383 compensation insurance throughout the registration period.
384 Failure to maintain general liability insurance and workers'
385 compensation insurance during the registration period
386 constitutes an immediate threat to the public health, safety,
387 and welfare, and the department may suspend or deny the
388 registration of a secondary metals recycler without such
389 insurance coverage.

390 6. Any additional information requested by the department.

391 (b)(a) An applicant shall remit a registration fee of \$350
392 for each of the applicant's business locations with each
393 application for registration and, if applicable, a fee equal to
394 the federal and state costs for processing required fingerprints
395 must be submitted to the department with each application for
396 registration. One application is required for each secondary
397 metals recycler. If a secondary metals recycler is the owner of
398 more than one secondary metals recycling location, the
399 application must list each location, and the department shall
400 issue a duplicate registration for each location. For purposes
401 of subsections (3), (4), and (5), these duplicate registrations
402 shall be deemed individual registrations. A secondary metals
403 recycler shall pay a fee of \$6 per location at the time of
404 registration and an annual renewal fee of \$350 \$6 per location
405 on October 1 of each year. All fees collected, less costs of
406 administration, shall be transferred into the General Inspection

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407 ~~Operating~~ Trust Fund.

408 (c)1. An applicant who is required to submit a copy of his
409 or her fingerprints under paragraph (a) must be fingerprinted by
410 an agency, entity, or vendor that meets the requirements of s.
411 943.053(13). The agency, entity, or vendor shall forward a
412 complete set of the applicant's fingerprints to the Department
413 of Law Enforcement for state processing, and the Department of
414 Law Enforcement shall forward the applicant's fingerprints to
415 the Federal Bureau of Investigation for national processing.

416 2. Fees for state and national fingerprint processing and
417 fingerprint retention shall be borne by the applicant. The state
418 cost for fingerprint processing is that authorized in s.
419 943.053(3) (b) for records provided to persons or entities other
420 than those specified as exceptions therein.

421 3. All fingerprints submitted to the Department of Law
422 Enforcement as required under this paragraph shall be retained
423 by the Department of Law Enforcement as provided under s.
424 943.05(2) (g) and (h) and enrolled in the Federal Bureau of
425 Investigation's national retained print arrest notification
426 program. Fingerprints may not be enrolled in the national
427 retained print arrest notification program until the Department
428 of Law Enforcement begins participation with the Federal Bureau
429 of Investigation. Arrest fingerprints will be searched against
430 the retained prints by the Department of Law Enforcement and the
431 Federal Bureau of Investigation.

432 4. For any renewal of the applicant's registration, the
433 department shall request the Department of Law Enforcement to
434 forward the retained fingerprints of the applicant to the
435 Federal Bureau of Investigation unless the applicant is enrolled

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436 in the national retained print arrest notification program
437 described in subparagraph 3. The fee for the national criminal
438 history check shall be paid as part of the renewal fee to the
439 department and forwarded by the department to the Department of
440 Law Enforcement. If the applicant's fingerprints are retained in
441 the national retained print arrest notification program, the
442 applicant shall pay the state and national retention fee to the
443 department, and the department shall forward the fee to the
444 Department of Law Enforcement.

445 5. The department shall notify the Department of Law
446 Enforcement regarding any person whose fingerprints have been
447 retained but who is no longer registered under this chapter.

448 6. The department shall screen background results to
449 determine if an applicant meets registration requirements.

450 ~~(b) The department shall forward the full set of~~
451 ~~fingerprints to the Department of Law Enforcement for state and~~
452 ~~federal processing, provided the federal service is available,~~
453 ~~to be processed for any criminal justice information as defined~~
454 ~~in s. 943.045. The cost of processing such fingerprints shall be~~
455 ~~payable to the Department of Law Enforcement by the department.~~
456 ~~The department may issue a temporary registration to each~~
457 ~~location pending completion of the background check by state and~~
458 ~~federal law enforcement agencies but shall revoke such temporary~~
459 ~~registration if the completed background check reveals a~~
460 ~~prohibited criminal background. The Department of Law~~
461 ~~Enforcement shall report its findings to the Department of~~
462 ~~Revenue within 30 days after the date the fingerprints are~~
463 ~~submitted for criminal justice information.~~

464 ~~(c) An applicant for a secondary metals recycler~~

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465 ~~registration must be a natural person who has reached the age of~~
466 ~~18 years or a corporation organized or qualified to do business~~
467 ~~in the state.~~

468 ~~1. If the applicant is a natural person, the registration~~
469 ~~must include a complete set of her or his fingerprints,~~
470 ~~certified by an authorized law enforcement officer, and a recent~~
471 ~~fullface photographic identification card of herself or himself.~~

472 ~~2. If the applicant is a partnership, all the partners must~~
473 ~~make application for registration.~~

474 ~~3. If the applicant is a corporation, the registration must~~
475 ~~include the name and address of such corporation's registered~~
476 ~~agent for service of process in the state and a certified copy~~
477 ~~of statement from the Secretary of State that the corporation is~~
478 ~~duly organized in the state or, if the corporation is organized~~
479 ~~in a state other than Florida, a certified copy of the statement~~
480 ~~that the corporation is duly qualified to do business in this~~
481 ~~state.~~

482 (2) A secondary metals recycler's registration shall be
483 conspicuously displayed at the place of business set forth on
484 the registration. A secondary metals recycler must allow
485 department personnel to enter the place of business to ascertain
486 whether a registration is current. If department personnel are
487 refused entry or access for such purpose, the department may
488 seek an inspection warrant pursuant to ss. 933.20-933.30 to
489 obtain compliance with this subsection ~~A secondary metals~~
490 ~~recycler shall not dispose of property at any location until any~~
491 ~~holding period has expired.~~

492 ~~(3) The Department of Revenue may impose a civil fine of up~~
493 ~~to \$10,000 for each knowing and intentional violation of this~~

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494 ~~section, which fine shall be transferred into the General~~
495 ~~Revenue Fund. If the fine is not paid within 60 days, the~~
496 ~~department may bring a civil action under s. 120.69 to recover~~
497 ~~the fine.~~

498 ~~(3)(4)~~ In addition to the penalties ~~fine~~ provided in s.
499 538.27 ~~subsection (3)~~, registration under this section may be
500 denied or any registration granted may be revoked, restricted,
501 or suspended by the department if, after October 2, 1989, and
502 within a 10-year ~~24-month~~ period immediately preceding such
503 denial, revocation, restriction, or suspension:

504 (a) The applicant or registrant, or an owner, officer,
505 director, or trustee of a registrant or applicant has been
506 convicted of knowingly and intentionally:

- 507 1. Violating s. 538.20, or s. 538.21, or s. 538.26;
508 2. Engaging in a pattern of failing to keep records as
509 required by s. 538.19;
510 3. Making a material false statement in the application for
511 registration; or
512 4. Engaging in a fraudulent act in connection with any
513 purchase or sale of regulated metals property;

514 (b) The applicant or registrant, or an owner, officer,
515 director, or trustee of a registrant or applicant has been
516 convicted of, or entered a plea of guilty or nolo contendere to,
517 a felony committed by the secondary metals recycler against the
518 laws of the state or of the United States involving theft,
519 larceny, dealing in stolen property, receiving stolen property,
520 burglary, embezzlement, obtaining property by false pretenses,
521 possession of altered property, or any felony drug offense or of
522 knowingly and intentionally violating the laws of the state

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523 relating to registration as a secondary metals recycler; or

524 (c) The applicant or registrant has, after receipt of
525 written notice from the Department of Revenue of failure to pay
526 sales tax, failed or refused to pay, within 30 days after the
527 secondary metals recycler's receipt of such written notice, any
528 sales tax owed to the Department of Revenue.

529 ~~(4)~~~~(5)~~ A denial of an application, or a revocation,
530 restriction, or suspension of a registration, by the department
531 shall be probationary for a period of 12 months in the event
532 that the secondary metals recycler subject to such action has
533 not had any other application for registration denied, or any
534 registration revoked, restricted, or suspended, by the
535 department within the previous 24-month period.

536 (a) If, during the 12-month probationary period, the
537 department does not again deny an application or revoke,
538 restrict, or suspend the registration of the secondary metals
539 recycler, the action of the department shall be dismissed and
540 the record of the applicant or secondary metals recycler cleared
541 thereof.

542 (b) If, during the 12-month probationary period, the
543 department, for reasons other than those existing before ~~prior~~
544 ~~to~~ the original denial or revocation, restriction, or
545 suspension, again denies an application or revokes, restricts,
546 or suspends the registration of the secondary metals recycler,
547 the probationary nature of such original action shall terminate,
548 and both the original action of the department and the action of
549 the department causing the termination of the probationary
550 nature thereof shall immediately be reinstated against the
551 applicant or secondary metals recycler.

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552 (c) The department shall immediately suspend a registration
553 or the processing of an application for registration upon
554 notification and subsequent written verification by a law
555 enforcement agency, a court, a state attorney, or the Department
556 of Law Enforcement that the registrant or applicant, or an
557 owner, officer, director, or trustee of a registrant or
558 applicant, is convicted of a felony enumerated in chapter 812 or
559 chapter 817.

560 (5)~~(6)~~ Upon the request of a law enforcement official, the
561 department ~~of Revenue~~ shall release to the official the name and
562 address of any secondary metals recycler registered to do
563 business within the official's jurisdiction.

564 Section 11. Subsections (1) and (5) of section 538.26,
565 Florida Statutes, are amended to read:

566 538.26 Certain acts and practices prohibited.—It is
567 unlawful for a secondary metals recycler to do or allow any of
568 the following acts:

569 (1) Purchase regulated metals property, restricted
570 regulated metals property, or ferrous metals before 7 a.m. or
571 after 7 p.m., or any time on Sunday.

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

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

577 2. Is an employee, agent, or contractor of the property's
578 owner who is authorized to sell the property on behalf of the
579 owner. Reasonable proof of authorization to sell the property
580 includes, but is not limited to, a signed letter on the owner's

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581 letterhead, dated no later than 90 days before the sale,
582 authorizing the seller to sell the property.

583 (b) The purchase of any of the following regulated metals
584 property is subject to the restrictions provided in paragraph
585 (a):

586 1. A manhole cover.

587 2. A metal ~~An~~ electric light pole ~~or other utility~~
588 ~~structure~~ and its fixtures.

589 3. ~~, wires, and~~ Hardware that is ~~are~~ readily identifiable
590 as connected to a metal electric light ~~the utility~~ structure.

591 ~~4.3.~~ A guard rail.

592 ~~5.4.~~ A street sign, traffic sign, or traffic signal and its
593 fixtures and hardware.

594 ~~6.5.~~ Communication, transmission, distribution, and service
595 wire from a utility, including copper or aluminum bus bars,
596 connectors, grounding plates, or grounding wire.

597 ~~7.6.~~ A funeral marker or funeral vase.

598 ~~8.7.~~ A historical marker.

599 ~~9.8.~~ Railroad equipment, including, but not limited to, a
600 tie plate, signal house, control box, switch plate, E clip, or
601 rail tie junction.

602 ~~10.9.~~ Any metal item that is observably marked upon
603 reasonable inspection with any form of the name, initials, or
604 logo of a governmental entity, utility company, cemetery, or
605 railroad.

606 ~~11.10.~~ A copper, aluminum, or aluminum-copper condensing or
607 evaporator coil, including its tubing or rods, from an air-
608 conditioning or heating unit, excluding coils from window air-
609 conditioning or heating units and motor vehicle air-conditioning

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610 or heating units.

611 ~~12.11.~~ An aluminum or stainless steel container or bottle
612 designed to hold propane for fueling forklifts.

613 ~~13.12.~~ A stainless steel beer keg.

614 ~~14.13.~~ A catalytic converter or any nonferrous part of a
615 catalytic converter unless purchased as part of a motor vehicle.

616 ~~15.14.~~ Metallic wire that has been burned in whole or in
617 part to remove insulation.

618 ~~16.15.~~ A brass or bronze commercial valve or fitting,
619 referred to as a "fire department connection and control valve"
620 or an "FDC valve," that is commonly used on structures for
621 access to water for the purpose of extinguishing fires.

622 ~~17.16.~~ A brass or bronze commercial potable water backflow
623 preventer valve that is commonly used to prevent backflow of
624 potable water from commercial structures into municipal domestic
625 water service systems.

626 ~~18.17.~~ A shopping cart.

627 ~~19.18.~~ A brass water meter.

628 ~~20.19.~~ A storm grate.

629 ~~21.20.~~ A brass sprinkler head used in commercial
630 agriculture.

631 ~~22.21.~~ Three or more ~~than two~~ lead-acid batteries, or any
632 part or component thereof, in a single purchase or from the same
633 individual in a single day.

634 Section 12. Section 538.27, Florida Statutes, is created to
635 read:

636 538.27 Administrative penalties.-

637 (1) Upon a determination that a violation of s. 538.19, s.
638 538.235, s. 538.25, or s. 538.26 has occurred, the department

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639 may do one or more of the following:

640 (a) Issue a notice of noncompliance pursuant to s. 120.695.

641 (b) Impose an administrative fine not to exceed \$200 per
642 violation and not to exceed \$5,000 per inspection.

643 (c) Direct that the secondary metals recycler cease and
644 desist specified activities.

645 (2) Administrative proceedings that could result in the
646 entry of an order imposing any penalty specified in this section
647 must be conducted in accordance with chapter 120.

648 (3) Fines collected under this section shall be deposited
649 into the General Inspection Trust Fund. The department may bring
650 a civil action under s. 120.69 to recover any fine imposed under
651 this section which is not paid within 60 days after imposition.

652 Section 13. Section 538.29, Florida Statutes, is created to
653 read:

654 538.29 Rulemaking authority.—The department may adopt rules
655 and forms to administer the provisions of this part. The rules
656 must include tiered penalties for violations of this part.

657 Section 14. For the 2014-2015 fiscal year, there is
658 appropriated to the Department of Agriculture and Consumer
659 Services, the sums of \$259,721 in recurring and \$185,664 in
660 nonrecurring funds from the General Inspection Trust Fund, and 4
661 full-time equivalent positions with associated salary rate of
662 138,181, are authorized for the purpose of implementing this
663 act.

664 Section 15. This act shall take effect July 1, 2014.