

By the Committees on Agriculture; and Commerce and Tourism; and
Senator Brandes

575-03929-14

20141182c2

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

575-03929-14

20141182c2

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; requiring that fees be deposited
47 into the General Inspection Trust Fund, rather than
48 the Operating Trust Fund; requiring a secondary metals
49 recycler to allow personnel of the Department of
50 Agriculture and Consumer Services to inspect a
51 registration at the listed place of business;
52 providing remedies to the Department of Agriculture
53 and Consumer Services if a secondary metals recycler
54 fails to allow such inspection; repealing certain
55 civil fines; revising criteria to deny or revoke a
56 registration as a secondary metals recycler; providing
57 for immediate suspension of an application for
58 registration or a registration if the applicant or

575-03929-14

20141182c2

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

73
74 Be It Enacted by the Legislature of the State of Florida:

75
76 Section 1. All powers; duties; functions; records;
77 personnel; property; pending issues and existing contracts;
78 administrative authority; administrative rules; and unexpended
79 balances of appropriations, allocations, and other funds for the
80 regulation of secondary metal recyclers are transferred by a
81 type two transfer, as defined in s. 20.06(2), Florida Statutes,
82 from the Department of Revenue to the Department of Agriculture
83 and Consumer Services.

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

86 213.05 Department of Revenue; control and administration of
87 revenue laws.—The Department of Revenue shall have only those

575-03929-14

20141182c2

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

575-03929-14

20141182c2

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

120 213.053 Confidentiality and information sharing.—

121 (1) This section applies to:

122 (a) Section 125.0104, county government;

123 (b) Section 125.0108, tourist impact tax;

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

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

128 (e) Chapter 198, estate taxes;

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

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

131 (h) Chapter 202, the Communications Services Tax

132 Simplification Law;

133 (i) Chapter 203, gross receipts taxes;

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

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

137 (l) Chapter 220, income tax code;

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

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

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

142 (p) Section 403.718, waste tire fees;

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

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

145 ~~(s) Section 538.25, registration of secondary metals~~

575-03929-14

20141182c2

146 ~~recyclers;~~

147 (s)~~(t)~~ Sections 624.501 and 624.509-624.515, insurance
148 code;

149 (t)~~(u)~~ Section 681.117, motor vehicle warranty enforcement;
150 and

151 (u)~~(v)~~ Section 896.102, reports of financial transactions
152 in trade or business.

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

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

160
161 Disclosure of information under this subsection shall be
162 pursuant to a written agreement between the executive director
163 and the agency. Such agencies, governmental or nongovernmental,
164 shall be bound by the same requirements of confidentiality as
165 the Department of Revenue. Breach of confidentiality is a
166 misdemeanor of the first degree, punishable as provided by s.
167 775.082 or s. 775.083.

168 (11) Notwithstanding any other provision of this section,
169 with respect to a request for verification of a certificate of
170 registration issued pursuant to s. 212.18 to a specified dealer
171 or taxpayer or with respect to a request by a law enforcement
172 officer for verification of a certificate of registration issued
173 pursuant to s. 538.09 to a specified secondhand dealer ~~or~~
174 ~~pursuant to s. 538.25 to a specified secondary metals recycler,~~

575-03929-14

20141182c2

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

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

184 319.30 Definitions; dismantling, destruction, change of
185 identity of motor vehicle or mobile home; salvage.—

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

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

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

193 538.18 Definitions.—As used in this part, the term:

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

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

199 (a) A ~~valid~~ Florida driver license.

200 (b) ~~7~~ A Florida identification card issued by the
201 Department of Highway Safety and Motor Vehicles.

202 (c) A, ~~an equivalent~~ form of identification equivalent to
203 paragraph (a) or paragraph (b) issued by another state.

575-03929-14

20141182c2

204 (d) ~~7~~ A passport.

205 (e) ~~7, or~~ An employment authorization issued by the United
206 States Bureau of Citizenship and Immigration Services ~~that~~
207 ~~contains an individual's photograph and current address.~~

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

210 538.19 Records required; limitation of liability.—

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

575-03929-14

20141182c2

233 available to the appropriate law enforcement official within 24
234 hours after receipt of the request.

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

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

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

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

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

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

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

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

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

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

261 2. Height, weight, date of birth, race, gender, hair color,

575-03929-14

20141182c2

262 eye color, and any other identifying marks.

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

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

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

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

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

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

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

287 538.20 Inspection of regulated metals property and
288 records.—During the usual and customary business hours of a
289 secondary metals recycler, a law enforcement officer or a
290 nonsworn, trained regulatory investigator of the department

575-03929-14

20141182c2

291 shall, after properly identifying herself or himself ~~as a law~~
292 ~~enforcement officer~~, have the right to inspect:

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

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

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

299 538.21 Hold notice.—

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

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

310 538.23 Violations and penalties.—

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

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

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

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

318 ~~4. Violates s. 538.235,~~

319

575-03929-14

20141182c2

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

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

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

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

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

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

340 538.25 Registration.—

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

575-03929-14

20141182c2

349 partnership, each partner must separately apply for
350 registration.

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

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

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

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

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

575-03929-14

20141182c2

378 to do business in this state.

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

389 6. Any additional information requested by the department.

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

575-03929-14

20141182c2

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

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

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

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

575-03929-14

20141182c2

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

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

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

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

463 ~~(c) An applicant for a secondary metals recycler~~
464 ~~registration must be a natural person who has reached the age of~~

575-03929-14

20141182c2

465 ~~18 years or a corporation organized or qualified to do business~~
466 ~~in the state.~~

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

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

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

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

491 ~~(3) The Department of Revenue may impose a civil fine of up~~
492 ~~to \$10,000 for each knowing and intentional violation of this~~
493 ~~section, which fine shall be transferred into the General~~

575-03929-14

20141182c2

494 Revenue Fund. ~~If the fine is not paid within 60 days, the~~
495 ~~department may bring a civil action under s. 120.69 to recover~~
496 ~~the fine.~~

497 (3)~~(4)~~ In addition to the penalties ~~fine~~ provided in s.
498 538.27 ~~subsection (3)~~, registration under this section may be
499 denied or any registration granted may be revoked, restricted,
500 or suspended by the department if, after October 2, 1989, and
501 within a 10-year ~~24-month~~ period immediately preceding such
502 denial, revocation, restriction, or suspension:

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

506 1. Violating s. 538.20, or s. 538.21, or s. 538.26;

507 2. Engaging in a pattern of failing to keep records as
508 required by s. 538.19;

509 3. Making a material false statement in the application for
510 registration; or

511 4. Engaging in a fraudulent act in connection with any
512 purchase or sale of regulated metals property;

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

575-03929-14

20141182c2

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

528 ~~(4)-(5)~~ A denial of an application, or a revocation,
529 restriction, or suspension of a registration, by the department
530 shall be probationary for a period of 12 months in the event
531 that the secondary metals recycler subject to such action has
532 not had any other application for registration denied, or any
533 registration revoked, restricted, or suspended, by the
534 department within the previous 24-month period.

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

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

551 (c) The department shall immediately suspend a registration

575-03929-14

20141182c2

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

559 ~~(5)(6)~~ Upon the request of a law enforcement official, the
560 department ~~of Revenue~~ shall release to the official the name and
561 address of any secondary metals recycler registered to do
562 business within the official's jurisdiction.

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

565 538.26 Certain acts and practices prohibited.—It is
566 unlawful for a secondary metals recycler to do or allow any of
567 the following acts:

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

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

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

576 2. Is an employee, agent, or contractor of the property's
577 owner who is authorized to sell the property on behalf of the
578 owner. Reasonable proof of authorization to sell the property
579 includes, but is not limited to, a signed letter on the owner's
580 letterhead, dated no later than 90 days before the sale,

575-03929-14

20141182c2

581 authorizing the seller to sell the property.

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

584 (a):

585 1. A manhole cover.

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

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

590 ~~4.3.~~ A guard rail.

591 ~~5.4.~~ A street sign, traffic sign, or traffic signal and its
592 fixtures and hardware.

593 ~~6.5.~~ Communication, transmission, distribution, and service
594 wire from a utility, including copper or aluminum bus bars,
595 connectors, grounding plates, or grounding wire.

596 ~~7.6.~~ A funeral marker or funeral vase.

597 ~~8.7.~~ A historical marker.

598 ~~9.8.~~ Railroad equipment, including, but not limited to, a
599 tie plate, signal house, control box, switch plate, E clip, or
600 rail tie junction.

601 ~~10.9.~~ Any metal item that is observably marked upon
602 reasonable inspection with any form of the name, initials, or
603 logo of a governmental entity, utility company, cemetery, or
604 railroad.

605 ~~11.10.~~ A copper, aluminum, or aluminum-copper condensing or
606 evaporator coil, including its tubing or rods, from an air-
607 conditioning or heating unit, excluding coils from window air-
608 conditioning or heating units and motor vehicle air-conditioning
609 or heating units.

575-03929-14

20141182c2

610 12.11. An aluminum or stainless steel container or bottle
611 designed to hold propane for fueling forklifts.

612 13.12. A stainless steel beer keg.

613 14.13. A catalytic converter or any nonferrous part of a
614 catalytic converter unless purchased as part of a motor vehicle.

615 15.14. Metallic wire that has been burned in whole or in
616 part to remove insulation.

617 16.15. A brass or bronze commercial valve or fitting,
618 referred to as a "fire department connection and control valve"
619 or an "FDC valve," that is commonly used on structures for
620 access to water for the purpose of extinguishing fires.

621 17.16. A brass or bronze commercial potable water backflow
622 preventer valve that is commonly used to prevent backflow of
623 potable water from commercial structures into municipal domestic
624 water service systems.

625 18.17. A shopping cart.

626 19.18. A brass water meter.

627 20.19. A storm grate.

628 21.20. A brass sprinkler head used in commercial
629 agriculture.

630 22.21. Three or more ~~than two~~ lead-acid batteries, or any
631 part or component thereof, in a single purchase or from the same
632 individual in a single day.

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

635 538.27 Administrative penalties.-

636 (1) Upon a determination that a violation of s. 538.19, s.
637 538.235, s. 538.25, or s. 538.26 has occurred, the department
638 may do one or more of the following:

575-03929-14

20141182c2

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

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

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

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

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

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

653 538.29 Rulemaking authority.—The department may adopt rules
654 and forms to administer the provisions of this part. The rules
655 must include tiered penalties for violations of this part.

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

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