

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 771 Secondary Metals Recyclers
SPONSOR(S): Agriculture & Natural Resources Subcommittee; Combee and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1182

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N, As CS	Renner	Blalock
2) Appropriations Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Secondary metals recyclers are currently regulated by the Department of Revenue (DOR) under Part II of ch. 538, F.S. Current law requires a secondary metals recycler to register with DOR prior to engaging in business, provides for the inspection of regulated metals property and records, and provides certain prohibitions and penalties.

The bill includes the following revisions pertaining to the regulation of secondary metals recyclers:

- Transfers all powers, duties, functions, records, personnel, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds of DOR relating to the administration of the laws governing secondary metals recyclers, by a type two transfer, to the Department of Agriculture and Consumer Services (DACS).
- Specifies that in order to be a secondary metals recycler, a person must register on an application form prescribed by DACS; increases the annual registration fee for each of the secondary metals recyclers locations from \$6 to \$350; requires each secondary metals recycler to maintain current and valid workers' compensation insurance and general liability insurance coverage in a minimum amount established by DACS throughout the registration period, and must provide DACS with written evidence of each before registering; and provides administrative penalties for noncompliance.
- Requires immediate suspension of a registration or application for registration if the registrant or applicant, or any owner, officer, director or trustee of a registrant or applicant is convicted of certain felony offenses, such as theft, robbery, dealing in stolen property, and fraud; allows suspension, revocation, restriction of a registration if, within the previous 10 years (instead of 2 years as under current law), the registrant was convicted of certain crimes.
- Provides that a violation of certain prohibited acts and practices related to secondary metals recyclers constitutes a third degree felony; specifies that a person who knowingly provides false information and then receives money or other consideration from a secondary metals recycler in return for regulated metals property, commits a second or third degree felony depending on the value of the money or consideration received; and provides that a person commits a second degree felony if the money or other consideration received is for restricted regulated metals.
- Requires applicants to submit fingerprints to the Florida Department of Law Enforcement (FDLE); requires FDLE to retain an applicant fingerprints and to forward the fingerprints on to the Federal Bureau of Investigation to be enrolled in the national retained print arrest notification; requires the applicant's fees for state and national fingerprint processing, along with the fingerprint retention fees, to be paid by the applicant.
- Provides that, in addition to a law enforcement officer, an employee of DACS who is a non-sworn trained regulatory investigator has the right to inspect all purchased regulated metals property in possession of a secondary metals recycler, and all records maintained by a secondary metals recycler; authorizes DACS to seek an inspection warrant if DACS personnel are denied access to a registrant's place of business in order to verify registration.
- Prohibits the purchase of regulated metals property, restricted regulated metals property, or ferrous metals at any time on Sundays; and prohibits the purchase of certain restricted regulated metals property without obtaining proof that the seller owns the regulated metals property.
- Authorizes DACS to adopt rules to implement the laws governing secondary metals recyclers, which must include tiered penalties for violations of these laws.

The bill appears to have a negative fiscal impact on the Department of Agriculture and Consumer Services (See Fiscal Comments Section). The bill does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0771a.ANRS

DATE: 3/14/2014

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

A secondary metals recycler is, generally, a person who is engaged in the business of obtaining ferrous¹ or nonferrous² metals, or converting metals into raw material products, or who has facilities for converting metals into raw material products.³ Secondary metals recyclers are currently regulated by the Department of Revenue (DOR) under Part II of ch. 538, F.S.

Required Records

Section 538.19, F.S., requires a secondary metals recycler to maintain legible paper and electronic records, approved by the Department of Law Enforcement, of all purchase transactions. Electronic records of a purchase transaction must be electronically transmitted to the appropriate law enforcement official no later than 10 a.m. of the business day following the date of the purchase transaction.

Inspections of Regulated Metals Property and Records

During the usual business hours of a secondary metals recycler, a properly identified law enforcement officer has the right to inspect any and all purchased regulated metals property in the possession of a secondary metals recycler and any and all records required to be maintained.⁴

Violations and Penalties

Pursuant to s. 538.23(1)(a), F.S., a secondary metals recycler commits a third degree felony⁵ if he or she knowingly and intentionally:

- Violates provisions related to inspections⁶ or hold notices;^{7,8}
- Engages in a pattern of failing to keep records;⁹
- Purchases regulated metals property, restricted regulated metals property, or ferrous metals from any seller when such property was not transported in a motor vehicle;¹⁰ or
- Violates provisions related to methods of payment.¹¹

A person who knowingly gives false verification of ownership or gives a false or altered identification and who receives money or other consideration from a secondary metals recycler in return for regulated metals property commits:

- A third degree felony¹² if the value of the money or other consideration received is less than \$300.

¹ Section 538.18(3), F.S., defines ferrous metals as any metals containing significant quantities of iron or steel.

² Section 538.(6), F.S., defines nonferrous metals as metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys, excluding precious metals.

³ See s. 538.18(11), F.S.

⁴ Section 538.20, F.S.

⁵ A third degree felony is punishable by up to five years imprisonment, or up to 10 years for habitual offenders, and a \$5,000 fine. Sections 772.082, 772.083, and 772.084, F.S.

⁶ Section 538.20, F.S.

⁷ Section 538.21, F.S.

⁸ If a law enforcement officer has a reasonable cause to believe that certain items of regulated metals property in possession of a secondary metals recycler has been stolen, the law enforcement officer may issue a hold notice. Upon receipt of the notice, the secondary metals recycler cannot process or remove the regulated metals property identified in the notice for 15 days after receipt of the notice.

⁹ Section 538.19, F.S.

¹⁰ Section 538.26(2), F.S.

¹¹ Section 538.235, F.S.

¹² See *supra* at note 5.

- A second degree felony¹³ if the value of the money or other consideration received is \$300 or more.¹⁴

Registration

A person must register with DOR to engage in business as a secondary metals recycler at any location.¹⁵ DOR can only accept applications from a fixed business address and will not accept an application form that provides an address of a hotel or motel room, a vehicle, or a post office box. Furthermore, the registration must be conspicuously displayed at the place of business set forth on the registration.¹⁶

An application for registration must include a fee equal to the federal and state costs for processing required fingerprints.¹⁷ One application is required for each secondary metals recycler, and if a secondary metals recycler owns more than one location, the application must list each location and DOR will issue a duplicate registration for each location. A secondary metals recycler must pay a \$6 fee for each location at the time of registration and an annual renewal fee of \$6 per location on October 1 of each year. All fees, less cost of administration, are deposited into the DOR Operating Trust Fund.

DOR is required to forward the full set of fingerprints to the Florida Department of Law Enforcement (FDLE) for state and federal processing, provided the federal service is available, to be processed for any criminal justice information.¹⁸ The cost of processing the fingerprints must be payable to FDLE by DOR. DOR is authorized to issue a temporary registration to each location pending completion of the background check by state and federal law enforcement agencies, but is authorized to revoke the temporary registration if the completed background check reveals a prohibited criminal background. FDLE is required to submit its findings to DOR within 30 days after the date the fingerprints are submitted for criminal justice information.¹⁹ According to the Department of Agriculture and Consumer Services (DACCS), fingerprint submissions for secondary metals recyclers are not currently retained by FDLE. If a subsequent background check is requested at the time of license renewal, another fingerprint-based background check would need to be submitted at a cost of \$40.50 (\$24 for state check plus \$16.50 for a national check) in addition to any service fees charged by a live scan service provider to the applicant or agency.

DOR is authorized to impose a civil fine of up to \$10,000 for each knowing and intentional violation of the registration requirements in s. 538.25, F.S., and if the fine is not paid within 60 days, DOR is authorized to bring a civil action under the Administrative Procedure Act.²⁰ The fine must be transferred into the General Revenue Fund.

A person acting as a secondary metals recycler who is not registered with DOR commits a third degree felony punishable by up to 5 years in prison, or up to 10 years for habitual offenders, and a fine not to exceed \$5,000.²¹

In addition to imposing fines for violations, DOR may deny, revoke, restrict, or suspend a registration if, within the preceding 24 months, the applicant or registrant, knowingly and intentionally:²²

¹³ A second degree felony is punishable by up to 15 years imprisonment, or up to 30 years for habitual offenders, and a \$10,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

¹⁴ Section 538.23(3), F.S.

¹⁵ Section 538.25(1), F.S.

¹⁶ Section 538.25(2), F.S.

¹⁷ Section 538.25(1)(a), F.S.

¹⁸ Section 943.045, F.S., defines criminal justice information as information on individuals collected or disseminated as a result of arrest, detention, or the initiation of a criminal proceeding by criminal justice agencies, including arrest record information, correctional and release information, criminal history record information, conviction record information, offender registration information, identification record information, and wanted persons record information. The term does not include statistical or analytical records or reports in which individuals are not identified and from which their identities are not ascertainable. The term does not include criminal intelligence information or criminal investigative information.

¹⁹ Section 538.25(1)(b), F.S.

²⁰ Section 120.69, F.S.

²¹ Sections 775.082, 775.083, and 775.084, F.S.

- Violates provisions related to inspections²³ or hold notices;²⁴
- Engages in a pattern of failing to keep records;²⁵
- Makes a material false statement in the application for registration; or
- Engages in a fraudulent act in connection with any purchase or sale of regulated metals property.

The same penalties may be assessed if, within the preceding 24 months:

- The applicant or registrant has been convicted of, or entered a plea of guilty or nolo contendere to, a felony committed by the secondary metals recycler under state or federal involving theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, or any felony drug offense or of knowingly and intentionally violating the laws of the state relating to registration as a secondary metals recycler; or
- The applicant has, after receipt of written notice from the department of failure to pay sales tax, failed or refused to pay, within 30 days after the secondary metals recycler's receipt of such written notice, any sales tax owed to the department.

Prohibited Acts and Practices

Section 538.26, F.S., provides that it is unlawful for a secondary metals recycler to:

- Purchase regulated metals property, restricted regulated metals property, or ferrous metals before 7 a.m. or after 7 p.m.
- Purchase regulated metals property, restricted regulated metals property, or ferrous metals from any seller when such property was not transported in a motor vehicle.
- Purchase regulated metals property, restricted regulated metals property, or ferrous metals from any location other than a fixed location.
- Purchase regulated metals property from a seller who:
 - Uses a name other than his or her own name or the registered name of the seller's business;
 - Is younger than 18 years of age; or
 - Is visibly or apparently under the influence of drugs or alcohol.
- Purchase the following restricted regulated metals property without obtaining proof that the seller owns the regulated metals property:
 - A manhole cover.
 - An electric light pole or other utility structure and its fixtures, wires, and hardware that are readily identifiable as connected to the utility structure.
 - A guardrail.
 - A street sign, traffic sign, or traffic signal and its fixtures and hardware.
 - A funeral marker or funeral vase.
 - A historical marker.
 - Railroad equipment, including, but not limited to, a tie plate, signal house, control box, switch plate, E clip, or rail tie junction.
 - Communication, transmission, distribution, and service wire from a utility, including copper or aluminum bus bars, connectors, grounding plates, or grounding wire.
 - A copper, aluminum, or aluminum-copper condensing or evaporator coil, including its tubing or rods, from an air-conditioning or heating unit, excluding coils from window air-conditioning or heating units and motor vehicle air-conditioning or heating units.
 - An aluminum or stainless steel container or bottle designed to hold propane for fueling forklifts.

²² Section 538.25(4), F.S.

²³ Section 538.20, F.S.

²⁴ Section 538.21, F.S.

²⁵ Section 538.19, F.S.

- A stainless steel beer keg.
- A catalytic converter or any nonferrous part of a catalytic converter unless purchased as part of a motor vehicle.
- Metallic wire that has been burned in whole or in part to remove insulation.
- A brass or bronze commercial valve or fitting, referred to as a “fire department connection and control valve” or an “FDC valve,” that is commonly used on structures for access to water for the purpose of extinguishing fires.
- A brass or bronze commercial potable water backflow preventer valve that is commonly used to prevent backflow of potable water from commercial structures into municipal domestic water service systems.
- A shopping cart.
- A brass water meter.
- A storm grate.
- A brass sprinkler head used in commercial agriculture.
- More than two lead-acid batteries, or any part or component of the battery, in a single purchase or from the same individual in a single day.²⁶

Confidentiality and Information Sharing

Section 213.053(2), F.S., provides that all information contained in returns, reports, accounts, or declarations received by DOR, including investigative reports and information and letters of technical advice, is confidential except for official purposes. This applies to certain taxes, trust funds, fees, and the registration of secondary metals recyclers.²⁷ Nevertheless, DOR may disclose information to governmental or nongovernmental agencies pursuant to a written agreement between the executive director of DOR and the agency. Furthermore, those agencies are bound by the same requirements of confidentiality as DOR.

Effect of Proposed Changes

Section 1. Transferring Regulation of Secondary Metals Recyclers from DOR to the Department of Agriculture and Consumer Services

The bill transfers all powers, duties, functions, records, personnel, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds of DOR relating to the administration of Part II of ch. 538, F.S., by a type two transfer,²⁸ to DACS.

The transfer does not affect the validity of any judicial or administrative action pending as of 11:59 p.m. on the day before the effective date of the bill to which DOR is at that time a party, and DACS must be substituted as a party in interest in any such action.

All lawful orders issued by DOR relating to the administration of Part II of ch. 538, F.S., issued before the effective date of the bill must remain in effect and be enforceable after the effective date unless subsequently modified in accordance with law.

In addition, the rules of DOR relating to the administration of Part II of ch. 538, F.S., that were in effect at 11:59 p.m. on the day before the effective date of the bill must remain in effect and be enforceable after the effective date unless subsequently modified in accordance with law.

²⁶ Section 538.26(5), F.S.

²⁷ Section 213.053(1), F.S.

²⁸ Section 20.06(2), F.S., defines a type two transfer as merging into another agency or department of an existing agency or department or a program, activity, or function of, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished. Any agency transferred by a type two transfer has all its statutory powers, duties, and functions. Unless provided by law, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

Section 2. Confidentiality and Information Sharing

The bill authorizes DOR to provide information related to taxes on sales, use, and other transactions, and to secondary metals recyclers to DACS.

Sections 3, 4, and 5. Provides Non-Substantive Revisions and Conforming Cross-References

Section 6. Inspection of Regulated Metals Property and Records

The bill provides that, in addition to a law enforcement officer, an employee of DACS who is a non-sworn trained regulatory investigator has the right to inspect all purchased regulated metals property in possession of a secondary metals recycler and all records maintained by a secondary metals recycler.

Sections 7. Provides Non-substantive Conforming Revisions

Sections 8 and 10. Prohibited Acts and Criminal Penalties

The bill amends s. 538.26, F.S., to prohibit the purchase of regulated metals property, restricted regulated metals property, or ferrous metals at any time on Sundays. The bill also adds the following metals to the list of regulated metals property that a secondary metals recycler is prohibited from purchasing without first obtaining proof that the seller owns the property:

- A metal electric light pole and its fixtures and hardware that is readily identifiable as connected to a metal electric light structure.
- Three or more lead-acid batteries, instead of two as required by current law.

In addition, the bill removes the following from the list of regulated metals property that a secondary metals recycler is prohibited from purchasing without first obtaining proof that the seller owns the property:

- Utility structures other than metal electric light poles, including their fixtures, wires, and hardware;
- Wires for metal electric light poles; and
- Grounding wires.

The bill amends s. 538.23, F.S., to specify that a person who knowingly and intentionally violates any of the prohibitions listed in s. 538.26, F.S., related to the purchasing of regulated metals property, described above, commits a third degree felony. Under current law, the only prohibited act listed under s. 538.26, F.S., that is a third degree felony is the purchase of regulated metals property, restricted regulated metals property, or ferrous metals from a seller when the property was not transported in a motor vehicle. Violations of the other provisions listed under s. 538.26, F.S., currently constitute a first degree misdemeanor,²⁹ with a fine not to exceed \$10,000.³⁰

The bill also amends s. 538.23, F.S., to state that a person who knowingly provides false information and receives money or other consideration from a secondary metals recycler in return for regulated metals property commits a third degree felony if the value of the money or other consideration is less than \$300. If the value of the money or other consideration is \$300 or more, the person commits a second degree felony. In addition, the bill provides that a person commits a second degree felony if the money or other consideration received is for *restricted* regulated metals.

Section 9. Registration

²⁹ A first degree misdemeanor is punishable by a term of imprisonment not to exceed one year. Section 775.082, F.S.

³⁰ Section 538.07, F.S.

The bill specifies that in order to be a secondary metals recycler, a person must register on an application form prescribed by DACS. An application for registration must state the full name of the applicant, the place where the business is to be conducted, and any other relevant information required by DACS. If the applicant is not an individual, the applicant must state the full name and address of each direct or beneficial owner of at least 10 percent equity interest in the business. If the applicant is a corporation, the application must state the full name and address of each officer and director.

The bill increases the annual registration fee for each of the secondary metals recyclers locations from \$6 to \$350. The fee is submitted to DACS, and all fees collected must be transferred into the General Inspection Trust Fund.

The bill requires an applicant to submit a full set of fingerprints to DACS or an entity or vendor. The applicant's fingerprints must be forwarded to FDLE for state processing, and FDLE is required to forward the applicant's fingerprints to the Federal Bureau of Investigation (FBI) for national processing. The applicant is required to pay fees for state and national fingerprint processing, along with the fingerprint retention fees. The state cost for fingerprint processing is \$15.³¹ FDLE is required to retain all submitted fingerprints and to enroll the fingerprints in the FBI's national retained print arrest notification program. Fingerprints must be enrolled in the national retained print arrest notification program when FDLE begins participation with the FBI. FDLE and the FBI must search arrest fingerprints against the retained prints, and any arrest record identified must be reported to FDLE. DACS is required to request FDLE to forward the retained fingerprints of the applicant to the FBI for any renewal of the applicant's registration unless the applicant is enrolled in the national retained print arrest notification program. The fee for the national criminal history check will be paid as part of the renewal fee to DACS and must be forwarded to FDLE. If an applicant's fingerprints are retained in the national retained print arrest notification program, the applicant is required to pay the state and national retention fee to DACS and DACS must forward the fee to FDLE. DACS is required to notify FDLE regarding a person whose fingerprints have been retained but who is no longer registered. DACS is required to screen background results to determine if an applicant meets registration requirements.

The bill requires each secondary metals recycler to maintain current and valid workers' compensation insurance and general liability insurance coverage in a minimum amount established by DACS throughout the registration period, and must provide DACS with written evidence of each before registering. The bill also declares that failure to maintain workers' compensation insurance or general liability insurance constitutes an immediate threat to the public health, safety, and welfare of the residents of Florida. If a secondary metals recycler fails to maintain the required insurance coverage, DACS may immediately suspend the secondary metals recycler's registration or eligibility for registration and the secondary metals recycler must immediately cease operating in this state.

The bill requires a person applying for or renewing a local business tax receipt to engage in business as a secondary metals recycler to exhibit an active registration certificate from DACS before the local business tax receipt may be issued or renewed.

In addition, the bill requires a secondary metals recycler to allow DACS personnel to enter the secondary metals recycler's place of business in order to verify that a registration is valid. If DACS personnel are refused entry for this purpose, DACS can seek an inspection warrant to obtain compliance with this requirement.

The bill repeals the civil fine of up to \$10,000 for each knowing and intentional violation of the registration requirements in s. 538.25, F.S. A secondary metal recycler that does not register as required in s. 538.25, F.S., still commits a third degree felony punishable by up to 5 years in prison, or up to 10 years for a habitual offender, and a fine not to exceed \$5,000.³²

The bill authorizes DACS to deny, suspend, revoke, or restrict a registration if within a 10-year period, as opposed to the current two-year period, immediately preceding the denial, suspension, revocation,

³¹ Section 943.053(3)(b), F.S.

³² Section 538.23(5), F.S.

or restriction, if the applicant or registrant, or any owner, officer, director or trustee of a registrant or applicant has been convicted of knowingly and intentionally violating certain requirements and regulations.

The bill also requires DACS to suspend the registration or the application for registration of any registrant or applicant, if that registrant or applicant, or any of its owners, officers, directors, or trustees have been convicted of a felony under ch. 812³³ or ch. 817, F.S.,³⁴ immediately upon receiving written verification of the conviction from a law enforcement agency, court, or state attorney's office of the Department of Law Enforcement.

Section 11. Administrative Penalties

The bill authorizes DACS, upon a determination that a violation of the provisions in ss. 538.19,³⁵ 538.235,³⁶ 538.25,³⁷ or 538.26, F.S.,³⁸ has occurred, to take one or more of the following actions:

- Issue a notice of noncompliance pursuant to s. 120.695, F.S.;³⁹
- Impose an administrative fine up to \$200 per violation, but not to exceed \$5,000 per inspection. Any fine collected must be deposited in the General Inspection Trust Fund. If a fine is not paid within 60 days after imposition, DACS is authorized to bring a civil action under s. 120.69, F.S.,⁴⁰ to recover the fine; or
- Direct that the secondary metals recycler cease and desist specified activities.

The bill also requires any administrative proceedings that could result in the entry of an order imposing any administrative penalties be conducted in accordance with ch. 120, F.S. (Administrative Procedure Act).

Section 12. Rulemaking Authority

The bill authorizes DACS to adopt rules to implement the laws governing secondary metals recyclers, which must include tiered penalties for violations of these laws.

Section 13. Provides an effective date of July 1, 2014

B. SECTION DIRECTORY:

Section 1. Transfers administration of Part II of ch. 538, F.S., relating to secondary metals recyclers, from DOR to DACS.

Section 2. Amends s. 213.053, F.S., relating to confidentiality and information sharing.

Section 3. Amends s. 319.30, F.S., conforming cross-references.

Section 4. Amends s. 538.18, F.S., conforming cross-references.

³³ Chapter 812, F.S., relates to theft, robbery, and related crimes.

³⁴ Chapter 817, F.S., relates to fraudulent practices including false pretenses and frauds, credit card crimes, credit service organizations, and credit counseling services.

³⁵ See discussion of s. 538.19, F.S., in the present situation, under the heading "Required Records."

³⁶ Section 538.235, F.S., provides specific restrictions and methods of payment for transactions involving secondary metals.

³⁷ Section 538.25, F.S., provides registration requirements for secondary metals recyclers applicants.

³⁸ See discussion of s. 538.26, F.S., in the present situation, under the heading "Prohibited Acts and Practices."

³⁹ Section 120.695, F.S., provides that it is the policy of the state that the purpose of regulation is to protect the public by attaining compliance with the policies established by the Legislature. Fines and other penalties may be provided in order to assure compliance; however, the collection of fines and the imposition of penalties are intended to be secondary to the primary goal of attaining compliance with an agency's rules.

⁴⁰ Pursuant to s. 120.69, F.S., any agency may seek enforcement of an action by filing a petition of enforcement in the circuit court where the subject matter of the enforcement is located.

Section 5. Amends s. 538.19, F.S., conforming cross-references.

Section 6. Amends s. 538.20, F.S., relating to the inspection of regulated metals property and records.

Section 7. Amends s. 538.21, F.S., relating to hold notices.

Section 8. Amends s. 538.23, F.S., relating to violations and penalties.

Section 9. Amends s. 538.25, F.S., relating to registration.

Section 10. Amends s. 538.26, F.S., relating to prohibited acts and practices.

Section 11. Creates s. 538.27, F.S., relating to administrative penalties.

Section 12. Authorizing DACS to adopt rules.

Section 13. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has a potentially negative fiscal impact on secondary metals recyclers. Under the bill, secondary metals recyclers must pay an annual \$350 registration fee for each site, instead of an annual \$6 fee for each site, as well as maintain current and valid workers' compensation insurance and general liability coverage.

D. FISCAL COMMENTS:

DACS provided the following fiscal analysis of the bill:⁴¹

<u>Recurring Revenues</u>	<u>(FY 14-15)</u>	<u>(FY 15-16)</u>
Registration fees (900 dealers at \$350)	\$315,000	\$315,000
Fingerprinting fees (900 dealers at \$31.50)	\$28,350	\$28,350

⁴¹ DACS 2014 analysis. On file with Agriculture & Natural Resources Subcommittee staff.
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Administrative penalties	Undetermined	Undetermined
Total Recurring Revenue	\$343,350	\$343,350
<u>Recurring Expenditures</u>		
Salaries and Benefits:		
Regulatory Consultant (2)	\$97,606	\$97,606
Law enforcement Investigator II (1)	\$61,507	\$61,507
Investigation Specialist II (2)	\$97,606	\$97,606
Expenses		
Professional-expense package (5)	\$31,305	\$31,305
Law Enforcement Package (1)	\$1,449	\$1,449
Uniform Allowance (1)	\$500	\$500
Contracted Services		
FDLE Fingerprinting Services (900 at \$31.50)	\$28,350	\$28,350
Special Category		
Human Resources Allocation (5)	\$1,720	\$1,720
Total Recurring Cost	\$320,043	\$320,043

Non-Recurring - General Inspection Trust Fund

Expenses

Professional-expense package (5)	\$18,865	\$0
Law Enforcement Package (1)	\$4,434	\$0

Contracted Services

Software-develop, test, deploy (1,040 hours at \$85)	\$88,400	\$0
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OCO

Mobile and Portable Radios	\$8,800	\$0
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Acquisition of Motor Vehicles (1)

2014 Ford Expedition 4WD 4DR XL SSV	\$28,626	\$0
2014 Chevy Impala	\$40,312	\$0

Total Non-Recurring Cost	\$189,437	\$0
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Total Recurring/Non-Recurring Cost	\$509,480	\$320,043
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Non-Operating Cost

Information Technology Support	\$4,845	\$4,845
Administrative/Indirect Cost	\$11,722	\$11,722
General Revenue Service Charge	\$25,200	\$25,200

Total Non-Operating Cost	\$41,767	\$41,767
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Expenditures Grand Total	\$551,247	\$361,810
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III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DACS to adopt rules to implement the laws governing secondary metals recyclers, which must include tiered penalties for violations of these laws.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The cross-reference to s. 538.26(2), F.S., on line 229 is duplicative under the bill, and, therefore, should be deleted.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 11, 2014, the Agriculture & Natural Resources Subcommittee adopted one amendment and reported the bill favorably with a committee substitute. The amendment requires an applicant to submit fingerprints to the Florida Department of Law Enforcement (FDLE). FDLE must retain the applicant's fingerprints and forward the fingerprints on to the Federal Bureau of Investigation to be enrolled in the national retained print arrest notification; and requires the applicant to pay fees for state and national fingerprint processing, along with the fingerprint retention fees. This is FDLE's uniform language used when fingerprints are required.

Under the bill, DACS is authorized to seek an *injunction* if refused entry for a compliance inspection. The amendment authorizes DACS to seek an *inspection warrant*. The amendment specifies that DACS can suspend the registration of an applicant if the owner, officer, director, or trustee of an applicant is convicted of certain theft-related felonies.

Under the bill, jelly wire, waveguide (heliac), underground cable, or heavy-gauge copper or aluminum wire measuring 0.75 inches or greater in diameter without insulation or one inch or greater in diameter with insulation, is added to the list of regulated metals property that a secondary metals recycler is prohibited from purchasing without first obtaining proof that the seller owns the property. The amendment removes this language and reverts back to current law.