

1 SB35
2 137010-3
3 By Senators Brooks and Ward
4 RFD: Judiciary
5 First Read: 07-FEB-12
6 PFD: 08/18/2011

2
3
4 ENGROSSED

5
6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To amend Sections 13A-8-30, 13A-8-31, 13A-8-32,
12 13A-8-33, 13A-8-34, 13A-8-35, 13A-8-36, 13A-8-37, and
13 13A-8-39, Code of Alabama 1975, relating to secondary metals
14 recyclers, to require a secondary metals recycler to maintain
15 additional records relating to the purchase of ferrous and
16 nonferrous metals; to further provide for the limits on
17 purchases by secondary metals recyclers for certain metal; to
18 require secondary metals recyclers to register with the
19 Alabama Criminal Justice Information Center (ACJIC) or other
20 responsible agency; ACJIC or another responsible agency to
21 maintain a database of certain information collected by
22 secondary metals recyclers relating to the purchase of metal
23 products; provide certain civil immunity for public or private
24 owners of metal property for certain injuries related to metal
25 property; to provide criminal penalties for damaging or
26 destroying certain metal property and would provide further

1 criminal penalties for the possession of certain stolen metal
2 property; to place restrictions on secondary metals recyclers
3 relating to the purchase of specified metal property; to add
4 Sections 13A-8-31.1, 13A-8-31.2, 13A-8-35.1, 13A-8-37.1, and
5 13A-8-37.2 to the Code of Alabama 1975; and in connection
6 therewith would have as its purpose or effect the requirement
7 of a new or increased expenditure of local funds within the
8 meaning of Amendment 621 of the Constitution of Alabama of
9 1901, now appearing as Section 111.05 of the Official
10 Recompilation of the Constitution of Alabama of 1901, as
11 amended.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 13A-8-30, 13A-8-31, 13A-8-32,
14 13A-8-33, 13A-8-34, 13A-8-35, 13A-8-36, 13A-8-37, and
15 13A-8-39, Code of Alabama 1975, are amended to read as
16 follows:

17 "§13A-8-30.

18 "As used in this article, the following terms have
19 the following meanings:

20 "(1) FERROUS METALS. Any metals containing
21 significant quantities of iron or steel, excluding motor
22 vehicles purchased in accordance with Section 32-8-87.

23 "(2) LAW ENFORCEMENT OFFICER. A duly constituted and
24 certified peace officer of the State of Alabama or of any
25 county or municipality within the state.

1 "(3) METAL PROPERTY. Metals as defined in this
2 section as either ferrous or nonferrous metals.

3 "(4) NONFERROUS METALS. Metals not containing
4 significant quantities of iron or steel, including, without
5 limitation, copper, brass, aluminum other than aluminum cans,
6 bronze, lead, zinc, nickel, stainless steel, and alloys
7 thereof, including stainless steel beer kegs.

8 "(5) PERSON. An individual, partnership,
9 corporation, joint venture, trust, association, or any other
10 legal entity.

11 "(6) PERSONAL IDENTIFICATION CARD. A driver's
12 license or identification card issued by the Department of
13 Public Safety or a similar card issued by another state, a
14 military identification card, a passport, or an appropriate
15 work authorization issued by the U.S. Citizenship and
16 Immigration Services of the Department of Homeland Security.

17 "(7) PHOTOGRAPH. A still photographic image,
18 including images captured in digital format, which are of such
19 quality that the persons and objects depicted are
20 identifiable.

21 "~~(7)~~ (8) PURCHASE TRANSACTION. A transaction in
22 which a secondary metals recycler gives consideration in
23 exchange for regulated metal property.

24 "~~(8)~~ (9) SECONDARY METALS RECYCLER. Any person,
25 whether licensed or not licensed, who is engaged, from a fixed
26 location or otherwise, in the business of paying compensation

1 for ferrous or nonferrous metals, whether or not engaged in
2 the business of performing the manufacturing process by which
3 ferrous metals or nonferrous metals are converted into raw
4 material products consisting of prepared grades and having an
5 existing or potential economic value. The term does not
6 include a pawnbroker licensed pursuant to Chapter 19A of Title
7 5, or a licensed automotive dismantler and parts recycler as
8 defined in Section 40-12-410, unless the entities engage in
9 the business of paying compensation for ferrous or nonferrous
10 metals.

11 "§13A-8-31.

12 "(a) A secondary metals recycler shall maintain a
13 legible record of all purchase transactions of ferrous or
14 nonferrous metals ~~that have served their original economic~~
15 ~~purpose~~ to which the secondary metals recycler is a party. The
16 record shall include all of the following information:

17 "(1) The name and address of the secondary metals
18 recycler.

19 "(2) The name or identification of the employee
20 responsible for making the purchase on behalf of the secondary
21 metals recycler.

22 "~~(2)~~ (3) The date and time of the transaction.

23 "~~(3)~~ (4) The weight, quantity, or volume and a
24 description of the type of metal property purchased in a
25 purchase transaction. For purposes of this subdivision, the

1 term "type of metal property" shall include a general physical
2 description, such as wire, tubing, extrusions, or casting.

3 ~~"(4)~~ (5) The amount of consideration given in a
4 purchase transaction for the metal property.

5 ~~"(5)~~ (6) A signed statement from the person
6 receiving consideration in the purchase transaction stating
7 that he or she is the rightful owner of the metal property or
8 is ~~entitled~~ authorized to sell the metal property being sold.

9 ~~"(6)~~ (7) The name and address of the person
10 delivering the metal property to the secondary metals
11 recycler.

12 ~~"(7)~~ (8) ~~The~~ A photocopy or scanned copy of the
13 personal identification card of the person delivering the
14 metal property to the secondary metals recycler, including the
15 distinctive number from, and type of, the personal
16 identification card of the person delivering the metal
17 property to the secondary metals recycler.

18 ~~"(8)~~ (9) The vehicle license tag number, and state
19 of issue, or the vehicle identification number if no vehicle
20 license tag is available, and the type of vehicle, ~~if~~
21 ~~available,~~ used to deliver the metal property to the secondary
22 metals recycler. For purposes of this subdivision, the term
23 "type of vehicle" shall mean an automobile, pickup truck, van,
24 or truck.

25 ~~"(9)~~ (10) A digital photograph or video recording of the
26 person delivering or receiving consideration for the metal

1 property delivered to the secondary metals recycler in which
2 the person's facial features are clearly visible and a
3 photograph or video recording of the metal property as
4 delivered or sold in which the type of metal property is
5 identifiable. The time and date shall be digitally recorded on
6 the photographs or video recording.

7 ~~"(b) The secondary metals recycler shall not enter~~
8 ~~into any cash transactions in excess of one hundred dollars~~
9 ~~(\$100) for copper or in excess of one thousand dollars~~
10 ~~(\$1,000) for all other metals in payment for the purchase of~~
11 ~~the metal property. Payment shall be made by check issued to~~
12 ~~the seller of the metal. The check shall be payable to the~~
13 ~~name and address of the seller of the metal and mailed to the~~
14 ~~recorded address of the seller or picked up in person by the~~
15 ~~seller. The secondary metals recycler, at his or her~~
16 ~~discretion, may make payment by either cash or check for~~
17 ~~transactions of one hundred dollars (\$100) or less for copper~~
18 ~~or one thousand dollars (\$1,000) or less for all other metals.~~

19 ~~"(c) (b)~~ A secondary metals recycler shall maintain
20 or cause to be maintained the information required by
21 subsection (a) for not less than ~~two years~~ one year from the
22 date of the purchase transaction.

23 "(c) Any person who intentionally violates the
24 requirements of subsections (a) or (b) shall be guilty of a
25 Class B misdemeanor for a first offense, a Class A misdemeanor

1 for a second offense, and a Class C felony for a third or
2 subsequent offense.

3 "(d) It shall be unlawful for any person to give
4 false information and receive money or other consideration
5 from a secondary metals recycler in return for metal property.
6 Any person in violation this subsection shall be guilty of a
7 Class C felony.

8 "§13A-8-32.

9 "During the usual and customary business hours of a
10 secondary metals recycler, a law enforcement officer, after
11 properly identifying himself or herself as a law enforcement
12 officer ~~and describing the object or objects for which he or~~
13 ~~she is inspecting,~~ shall have the right to inspect:

14 "(1) All purchased metal property in the possession
15 of the secondary metals recycler.

16 "(2) All records required to be maintained under
17 Section 13A-8-31.

18 "§13A-8-33.

19 "(a) (1) Whenever a law enforcement officer has
20 reasonable ~~cause~~ suspicion to believe that any item of metal
21 property in the possession of a secondary metals recycler has
22 been stolen, the law enforcement officer, ~~who has an affidavit~~
23 ~~from the alleged rightful owner of the property identifying~~
24 ~~the property with specificity, including any identifying~~
25 ~~markings,~~ may issue a hold notice to the secondary metals
26 recycler. The hold notice shall be in writing, shall be

1 delivered to the secondary metals recycler, shall specifically
2 identify those items of metal property that are believed to
3 have been stolen and that are subject to the notice, and shall
4 inform the secondary metals recycler of the information
5 contained in this section.

6 "(2) Upon receipt of the notice, the secondary
7 metals recycler may not process or remove the items of metal
8 property identified in the notice, or any portion thereof,
9 from the place of business of the secondary metals recycler
10 for 15 calendar days after receipt of the notice by the
11 secondary metals recycler, unless sooner released by a law
12 enforcement officer.

13 "(b) (1) No later than the expiration of the 15-day
14 period, a law enforcement officer after receiving additional
15 substantive evidence ~~beyond the initial affidavit~~ may issue a
16 second hold notice to the secondary metals recycler, which
17 shall be an extended hold notice. The extended hold notice
18 shall be in writing, shall be delivered to the secondary
19 metals recycler, shall specifically identify those items of
20 metal property that are believed to have been stolen and that
21 are subject to the extended hold notice, and shall inform the
22 secondary metals recycler of the information contained in this
23 section.

24 "(2) Upon receipt of the extended hold notice, the
25 secondary metals recycler may not process or remove the items
26 of metal property identified in the notice, or any portion

1 thereof, from the place of business of the secondary metals
2 recycler for 30 calendar days after receipt of the extended
3 hold notice by the secondary metals recycler, unless sooner
4 released by a law enforcement officer.

5 "(c) At the expiration of the hold period or, if
6 extended in accordance with this section, at the expiration of
7 the extended hold period, the hold is automatically released
8 and the secondary metals recycler may dispose of the metal
9 property unless other disposition has been ordered by a court
10 of competent jurisdiction.

11 "(d) Any person who intentionally violates the
12 requirements of subsection (a) or (b) shall be guilty of a
13 Class B misdemeanor for a first offense, a Class A misdemeanor
14 for a second offense, and a Class C felony for a third or
15 subsequent offense.

16 "§13A-8-34.

17 "(a) If the secondary metals recycler contests the
18 identification or ownership of the metal property, the party
19 other than the secondary metals recycler claiming ownership of
20 any metal property in the possession of ~~a~~ the secondary metals
21 recycler may, provided that a timely report of the theft of
22 the metal property was made to the proper authorities, bring
23 an action in the circuit court of the county in which the
24 secondary metals recycler is located. The petition for the
25 action shall include a description of the means of
26 identification of the metal property utilized by the

1 petitioner to determine ownership of the metal property in the
2 possession of the secondary metals recycler. If the person who
3 sold the metal property to the secondary metals recycler is
4 convicted of theft of property or criminal mischief related to
5 the removal of the metal property, the court shall order the
6 defendant to make full restitution to the victim including,
7 without limitation, attorney fees, court costs, and property
8 damage which resulted from the theft of property, and other
9 expenses.

10 "(b) When a lawful owner recovers stolen metal
11 property from a secondary metals recycler who has complied
12 with this article, and the person who sold the metal property
13 to the secondary metals recycler is convicted of a violation
14 of this article, or theft by receiving stolen property, the
15 court shall order the defendant to make full restitution,
16 including, without limitation, attorneys' fees, court costs,
17 and other expenses to the secondary metals recycler.

18 "§13A-8-35.

19 "This article shall not apply to purchases of metal
20 property from any of the following:

21 "(1) A law enforcement officer acting in an official
22 capacity unless the law enforcement officer is investigating a
23 compliance issue pursuant to this chapter or is presenting
24 metal property for sale.

1 "(2) A trustee in bankruptcy, executor,
2 administrator, or receiver who has presented proof of such
3 status to the secondary metals recycler.

4 "(3) Any public official acting under a court order
5 who has presented proof of such status to the secondary metals
6 recycler.

7 "(4) A sale ~~on~~ or the execution, or by virtue, of
8 any process issued by a court if proof thereof has been
9 presented to the secondary metals recycler.

10 "(5) A manufacturing, industrial, or other
11 commercial vendor that generates or sells regulated metal
12 property in the ordinary course of its business.

13 "§13A-8-36.

14 "(a) It shall be unlawful for any person to give a
15 false statement of ownership or to give a false or altered
16 identification or vehicle tag number and receive money or
17 other consideration from a secondary metals recycler in return
18 for metal property. is unlawful for a person with the intent
19 to damage property and having no right to do so or any
20 reasonable ground to believe that he or she has such a right,
21 damages or destroys any of the following:

22 "(1) Telecommunications, cable communications, or
23 electric power transmission pedestal or pole owned or operated
24 by a telecommunications, cable, or electric power company or
25 cooperative, or electric power supplier, or railroad.

1 "(2) Telecommunications, cable communications, or
2 electric power grounding or any other equipment or materials
3 used in the delivery of electricity, wire, fiber insulator,
4 power supply transformer, ground wire, or other apparatus,
5 equipment, or fixture used in the transmission of
6 telecommunications, cable communications, or electric power
7 owned or operated by a telecommunications, cable, or electric
8 power company or cooperative, or electric power supplier, or
9 railroad.

10 "(3) Equipment used in the transmission of wireless
11 communications or related to wireless communications.

12 "(4) Equipment used at any facility of over the air
13 broadcast companies.

14 "(5) Railroad materials and lading, including, but
15 not limited to, any rail telecommunications; cable
16 communications; power and signal equipment and wires;
17 road/rail crossing signals, equipment, and wires; metal
18 property lading being transported by a railroad; and any
19 railroad track and other operating materials, including switch
20 component, spike, angle bar, tie plate or bolt of the type
21 used in constructing railroads.

22 "(6) Electric power line, gas line, water line, wire
23 or fiber insulators, electric motors or other apparatus,
24 heating and cooling systems, and environmental control systems
25 that are connected to farm shops, on-farm grain drying and
26 storage complexes, animal production facilities, irrigation

1 systems, greenhouse facilities, or other agricultural,
2 forestry, or food-related activities, equipment, structures,
3 systems, or vehicles.

4 "(7) Any electric power line, gas line, water line,
5 wire or fiber insulators, fencing, gates, security structures,
6 electric motors or other apparatus, metering instruments,
7 communications antenna, environmental control systems, and
8 processing plants that are connected to oil, natural gas,
9 coalbed methane, shale gas, or other petroleum producing
10 properties, equipment, structures, systems, or vehicles.

11 "(8) Any metal property from a school, place of
12 worship, or a secondary metals recycler's premises.

13 (9) A copper, aluminum, or aluminum-copper
14 condensing or evaporating coil, including its tubing or rods,
15 from a heating or air conditioning unit, excluding scrap from
16 window air conditioning units and automobile condenser coils,
17 unless any one of the following criteria are satisfied:

18 a. The condenser coils are being sold by a licensed
19 contractor, HVAC contractor, plumber, or electrician and a
20 current and valid license with number is provided at the time
21 of sale and copied or scanned by the secondary metals recycler
22 at the time of sale.

23 b. The condenser coils are being sold by a person
24 with verifiable documentation, such as a receipt or work
25 order, indicating that the condenser coils are the result of a

1 replacement of an air conditioner unit or condenser coils
2 performed by a licensed contractor.

3 (10) Utility access covers, manhole covers, or storm
4 drain covers, unless the seller is a company that deals in the
5 manufacture or sale of the aforementioned products.

6 (11) Grave markers, vases, memorials, statues,
7 plaques, or other bronze objects used at a cemetery or other
8 location where deceased persons are interred or memorialized
9 or any other metal historic markers or monuments or the
10 attached support or post to either, unless the seller is a
11 company that deals in the manufacture or sale of the
12 aforementioned products.

13 "(b) Any person in violation of this section shall
14 be guilty of a Class C felony.

15 "(c) Any person in violation of this section shall
16 be guilty of a Class B felony if the damage or destruction
17 causes or may cause imminent danger to the health and safety
18 of the public, a metal owner's employees, first responders,
19 law enforcement officers, or utility workers, or cause an
20 interruption in communications services or electric utility
21 services. For purposes of this subsection, "imminent danger"
22 means the existence of any condition that could hinder or
23 disrupt the normal operation of equipment, systems, or
24 services provided for the health and safety of the public,
25 metal owner's employees, first responders, law enforcement

1 officers, or utility workers or cause an interruption in
2 communications services or electric utility services.

3 "(d) At the time of sentencing of any person
4 convicted under this section, the judge may order restitution
5 in an amount determined by the court; provided, however, the
6 amount shall not be less than the value of the metal property
7 determined to have been damaged or stolen and shall include
8 the cost of replacement and the cost to repair any and all
9 damage caused during the commission of the crime for which the
10 person is convicted.

11 "§13A-8-37.

12 ~~"(a) Any person selling metal property to a~~
13 ~~secondary metals recycler in violation of this article shall~~
14 ~~be guilty of:~~

15 ~~"(1) A Class A misdemeanor if the value of the~~
16 ~~transaction or transactions in an aggregate amount is less~~
17 ~~than five hundred dollars (\$500).~~

18 ~~"(2) A Class C felony if the value of the~~
19 ~~transaction or transactions in an aggregate amount exceeds~~
20 ~~five hundred dollars (\$500), but does not exceed two thousand~~
21 ~~five hundred dollars (\$2,500) in value.~~

22 ~~"(3) A Class B felony if the value of the~~
23 ~~transaction or transactions in an aggregate amount exceeds two~~
24 ~~thousand five hundred dollars (\$2,500).~~

25 ~~"(b) At the time of sentencing of any person~~
26 ~~convicted under this article, the court may order restitution.~~

1 ~~"(c) Any secondary metals recycler who knowingly and~~
2 ~~intentionally engages in any practice which constitutes a~~
3 ~~violation of this article shall be guilty of a misdemeanor,~~
4 ~~provided that if a secondary metals recycler knowingly and~~
5 ~~intentionally engages in a pattern of practices which~~
6 ~~constitutes a violation of this article and the transactions~~
7 ~~included in this pattern are in an aggregate amount which~~
8 ~~exceeds five hundred dollars (\$500), the secondary metals~~
9 ~~recycler shall be guilty of a Class C felony.~~

10 " (a) It is unlawful for a person to possess or
11 control the following property knowing that it has been stolen
12 or having reasonable grounds to believe it has been stolen,
13 unless the property is possessed or controlled with intent to
14 restore it to the owner:

15 "(1) Metal property marked with the initials of an
16 electrical company, a telephone company, a cable company,
17 another public utility, a railroad, or a brewer.

18 "(2) Utility access covers, manhole covers, or storm
19 drain covers, unless the seller is a company that deals in the
20 manufacture or sale of the aforementioned products.

21 "(3) Street light poles and fixtures, unless the
22 seller is a company that deals in the manufacture or sale of
23 the aforementioned products.

24 "(4) Road and bridge guard rails unless the seller
25 is a company that deals in the manufacture or sale of the
26 aforementioned products.

1 "(5) Highway or street signs, traffic light signals,
2 and traffic directional and control signs unless the seller is
3 a company that deals in the manufacture or sale of the
4 aforementioned products.

5 "(6) Water meter covers unless the seller is a
6 company that deals in the manufacture or sale of the
7 aforementioned products.

8 "(7) Metal beer kegs including those made of
9 stainless steel that are clearly marked as being the property
10 of a beer manufacturer unless the seller is a company that
11 deals in the manufacture or sale of the aforementioned
12 products.

13 "(8) Metal property marked with the name of a
14 government entity.

15 "(9) Unused and undamaged building construction or
16 utility materials consisting of copper, pipe, tubing or
17 wiring, aluminum wire, or historical markers.

18 "(10) Grave markers, vases, memorials, statues,
19 plaques, or other bronze objects used at a cemetery or other
20 location where deceased persons are interred or memorialized,
21 unless the seller is a company that deals in the manufacture
22 or sale of the aforementioned products.

23 (11) A copper, aluminum, or aluminum-copper
24 condensing or evaporating coil, including its tubing or rods,
25 from a heating or air conditioning unit, excluding scrap from

1 window air conditioning units and automobile condenser coils,
2 unless any one of the following criteria are satisfied:

3 a. The condenser coils are being sold by a licensed
4 contractor, HVAC contractor, plumber, or electrician and a
5 current and valid license with number is provided at the time
6 of sale and copied or scanned by the secondary metals recycler
7 at the time of sale.

8 b. The condenser coils are being sold by a person
9 with verifiable documentation, such as a receipt or work
10 order, indicating that the condenser coils are the result of a
11 replacement of an air conditioner unit or condenser coils
12 performed by a licensed contractor.

13 "(b) Any person who violates the requirements of
14 subdivision (a) (2) or (a) (10) shall be guilty of a Class C
15 felony for a first offense, a Class B felony for a second
16 offense, and a Class A felony for a third or subsequent
17 offense.

18 "(c) Any person who violates the requirements of
19 subdivision (1), (3), (4), (5), (6), (7), (8), or (9) of
20 subsection (a) shall be guilty of a Class B misdemeanor for a
21 first offense, a Class A misdemeanor for a second offense, and
22 a Class C felony for a third or subsequent offense.

23 "§13A-8-39.

24 "This article shall apply to all businesses
25 regulated under this article without regard to the location
26 within the State of Alabama and shall take precedence over any

1 and all local ordinances governing purchase transactions of
2 metal property by a secondary metals recycler; ~~provided~~
3 ~~however, that any ordinance in effect on July 1, 2010, shall~~
4 ~~be held to be in full force and effect and shall not be~~
5 ~~subject to this section.~~

6 Section 2. Sections 13A-8-31.1, 13A-8-31.2,
7 13A-8-35.1, 13A-8-37.1, and 13A-8-37.2, are added to the Code
8 of Alabama 1975, as follows:

9 §13A-8-31.1.

10 (a) A secondary metals recycler may not enter into
11 any cash transactions in excess of fifty dollars (\$50) for
12 copper, copper/aluminum air conditioning coils, or catalytic
13 convertors, or any items described in subdivision (a)(2) or
14 (a)(10) of Section 13A-8-37, or in excess of five hundred
15 dollars (\$500) for all other metals in payment for the
16 purchase of metal property. Payment by check may be made
17 payable only to the person whose information was recorded
18 pursuant to Section 13A-8-31.

19 (b) It shall be unlawful for a secondary metals
20 recycler to purchase metal property from a person younger than
21 18 years of age.

22 (c) Metal property may not be purchased between the
23 hours of 9:00 P.M. and 6:00 A.M.

24 (d) Any person who intentionally violates the
25 requirements of this section shall be guilty of a Class B
26 misdemeanor for a first offense, a Class A misdemeanor for a

1 second offense, and a Class C felony for a third or subsequent
2 offense.

3 §13A-8-31.2.

4 (a) All secondary metals recyclers subject to this
5 chapter shall register with the Alabama Criminal Justice
6 Information Center (ACJIC) within 30 days of the effective
7 date of this section and shall pay an annual registration fee
8 of two hundred fifty dollars (\$250) to ACJIC. The registration
9 shall include the name of the business, address of the
10 business, telephone number, and the name of the owner or
11 owners of the business.

12 (b) (1) Prior to January 1, 2013, secondary metals
13 recyclers shall continue to abide by any reporting
14 requirements currently in effect and followed by the
15 recyclers.

16 (2) Effective January 1, 2013, secondary metals
17 recyclers shall enter the information required by subdivisions
18 (1), (3), (4), (5), (7), and (9) of subsection (a) of Section
19 13A-8-31 into a database maintained by the ACJIC and shall
20 transmit such information electronically to the database no
21 later than 9:00 P.M. on the day of a purchase transaction. The
22 ACJIC Commission in consultation with the members of the
23 Alabama Recycling Association shall promulgate rules,
24 regulations, and policies for the receipt and dissemination of
25 the information in the database through ACJIC information
26 systems. All information reported by secondary metals

1 recyclers pursuant to this section shall be considered to be
2 confidential and privileged and exempt from disclosure under
3 Section 41-13-1. The ACJIC Commission shall ensure that
4 adequate safeguards are incorporated and maintained so that
5 the data may be accessed and used only by properly authorized
6 law enforcement agencies or corporate security departments
7 acting on behalf of their employers for the purpose of
8 investigating thefts of metal property. Any person releasing
9 or using this data in an unauthorized manner shall be subject
10 to the provisions of Section 13A-10-82.

11 (c) Any person who intentionally violates the
12 requirements of this section shall be guilty of a Class B
13 misdemeanor for a first offense, a Class A misdemeanor for a
14 second offense, and a Class C felony for a third or subsequent
15 offense.

16 §13A-8-35.1.

17 (a) A public or private owner of metal property is
18 not civilly liable to a person who is injured during the theft
19 or attempted theft of metal property in any amount by the
20 person or a third party.

21 (b) A public or private owner of metal property is
22 not civilly liable for a person's injuries caused by a
23 dangerous condition created as a result of the theft or
24 attempted theft of the owner's metal property in any amount
25 when the owner of the metal property did not know and could
26 not have reasonably known of the dangerous condition.

1 (c) This section does not create or impose a duty of
2 care upon an owner of metal property that would not otherwise
3 exist under common law.

4 §13A-8-37.1.

5 (a) It is unlawful for a secondary metals recycler
6 to purchase the following property unless a copy of verifiable
7 documentation in addition to the signed statement required by
8 subdivision (a)(6) of Section 13A-8-31 is provided to the
9 secondary metals recycler that the seller is the owner of the
10 property:

11 (1) Catalytic convertors that are not part of an
12 entire motor vehicle.

13 (2) Metal property of a telephone company, an
14 electric company, a cable company, a water company, another
15 utility, or a railroad marked or otherwise identified as such.

16 (3) Copper wire that has been burned to remove the
17 insulation, unless verifiable documentation is provided that
18 the source of the copper wire was in a building destroyed by
19 fire.

20 (4) A copper, aluminum, or aluminum-copper
21 condensing or evaporating coil, including its tubing or rods,
22 from a heating or air conditioning unit, excluding scrap from
23 window air conditioning units and automobile condenser coils,
24 unless any one of the following criteria are satisfied:

25 a. The condenser coils are being sold by a licensed
26 contractor, HVAC contractor, plumber, or electrician and a

1 current and valid license with number is provided at the time
2 of sale and copied or scanned by the secondary metals recycler
3 at the time of sale.

4 b. The condenser coils are being sold by a person
5 with verifiable documentation, such as a receipt or work
6 order, indicating that the condenser coils are the result of a
7 replacement of an air conditioner unit or condenser coils
8 performed by a licensed contractor.

9 (5) Utility access covers, manhole covers, or storm
10 drain covers, unless the seller is a company that deals in the
11 manufacture or sale of the aforementioned products.

12 (6) Grave markers, vases, memorials, statues,
13 plaques, or other bronze objects used at a cemetery or other
14 location where deceased persons are interred or memorialized
15 or any other metal historic markers or monuments or the
16 attached support or post to either, unless the seller is a
17 company that deals in the manufacture or sale of the
18 aforementioned products.

19 (7) Any metal property that has been brightly
20 painted or marked to deter theft of the property.

21 (8) Ventilation fans or similar fans designed to
22 supply fresh air to workers in confined spaces such as
23 underground mines or other similar circumstances.

24 (b) Any person in violation of this section shall be
25 guilty of a Class B felony.

26 §13A-8-37.2.

1 Compliance by a secondary metals recycler with
2 Sections 13A-8-31, 13A-8-31.1, 13A-8-31.2, and 13A-8-37.1,
3 with regard to a purchase of metal property shall be
4 recognized by law enforcement agencies and the Alabama state
5 courts as evidence that the possession of the metal property
6 is lawful.

7 Section 3. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10

11
12
13
14
15
16
17
18

Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 07-FEB-12

Read for the second time and placed on the calen-
dar with 1 substitute and..... 16-FEB-12

Read for the third time and passed as amended 23-FEB-12

Yeas 28
Nays 2
Abstaining 1

Patrick Harris
Secretary