

1 SB364
2 116123-3
3 By Senator Bedford
4 RFD: Finance and Taxation General Fund
5 First Read: 02-FEB-10

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8 SYNOPSIS: Existing law makes it a crime for a person
9 to sell stolen metal property to a secondary metals
10 recycler. Existing law requires a secondary metals
11 recycler to keep a record of certain purchase
12 transactions of metal property.

13 This bill would specify that certain
14 recording requirements and limits of cash
15 transactions apply only to purchase transactions of
16 metal property that has served its original
17 economic purpose.

18 This bill would also include within the
19 value of the transaction for purposes of
20 determining the severity of the offense the costs
21 of repairing any damage to the victim's property
22 caused during the theft of the metal property.

23 Existing law provides that for three years
24 following September 1, 2007, a secondary metals
25 recycler may not enter into any cash transaction in
26 excess of \$100 for copper and \$1,000 for other
27 metals. Effective September 2, 2010, a secondary

1 metals recycler may not enter into a cash
2 transaction for any metals in excess of \$1,000.

3 This bill would delete the change in the law
4 effective September 2, 2010, so that cash
5 transactions for copper in excess of \$100 would
6 continue to be prohibited.

7 This bill would also provide that Article
8 1A, Chapter 8 of Title 13A, Code of Alabama 1975,
9 takes precedence over local ordinances governing
10 purchase transactions by a secondary metals
11 recycler.

12 Amendment 621 of the Constitution of Alabama
13 of 1901, now appearing as Section 111.05 of the
14 Official Recompilation of the Constitution of
15 Alabama of 1901, as amended, prohibits a general
16 law whose purpose or effect would be to require a
17 new or increased expenditure of local funds from
18 becoming effective with regard to a local
19 governmental entity without enactment by a 2/3 vote
20 unless: it comes within one of a number of
21 specified exceptions; it is approved by the
22 affected entity; or the Legislature appropriates
23 funds, or provides a local source of revenue, to
24 the entity for the purpose.

25 The purpose or effect of this bill would be
26 to require a new or increased expenditure of local
27 funds within the meaning of the amendment. However,

1 the bill does not require approval of a local
2 governmental entity or enactment by a 2/3 vote to
3 become effective because it comes within one of the
4 specified exceptions contained in the amendment.

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6 A BILL
7 TO BE ENTITLED
8 AN ACT
9

10 To amend Sections 13A-8-30, 13A-8-31, 13A-8-37, and
11 13A-8-39, Code of Alabama 1975, relating to the sale of
12 certain metal property to secondary metals recyclers and
13 providing penalties for sellers violating the act; to specify
14 that certain record keeping requirements and limitations on
15 purchase transactions apply only to metal property that has
16 served its original economic purpose; to include within the
17 value of the transaction for purposes of determining the
18 severity of the crime and the penalty the costs of repairing
19 any damage to the victim's property caused during the theft;
20 to remove the three-year limitation on prohibiting certain
21 cash transactions for copper purchases; to provide that
22 Article 1A, Chapter 8 of Title 13A shall take precedence over
23 local ordinances governing purchase transactions by a
24 secondary metals recycler; and in connection therewith would
25 have as its purpose or effect the requirement of a new or
26 increased expenditure of local funds within the meaning of
27 Amendment 621 of the Constitution of Alabama of 1901, now

1 appearing as Section 111.05 of the Official Recompilation of
2 the Constitution of Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 13A-8-30, 13A-8-31, 13A-8-37,
5 and 13A-8-39, Code of Alabama 1975, are amended to read as
6 follows:

7 "§13A-8-30.

8 "As used in this article, the following terms have
9 the following meanings:

10 "(1) FERROUS METALS. Any metals containing
11 significant quantities of iron or steel.

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

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

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

22 "(5) PERSON. An individual, partnership,
23 corporation, joint venture, trust, association, or any other
24 legal entity.

25 "(6) PERSONAL IDENTIFICATION CARD. A driver's
26 license or identification card issued by the Department of
27 Public Safety or a similar card issued by another state, a

1 military identification card, a passport, or an appropriate
2 work authorization issued by the U.S. Citizenship and
3 Immigration Services of the Department of Homeland Security.

4 "(7) PURCHASE TRANSACTION. A transaction in which a
5 secondary metals recycler gives consideration in exchange for
6 regulated metal property.

7 "(8) SECONDARY METALS RECYCLER. Any person who is
8 engaged, from a fixed location or otherwise, in the business
9 of paying compensation for ferrous or nonferrous metals ~~that~~
10 ~~have served their original economic purpose~~, whether or not
11 engaged in the business of performing the manufacturing
12 process by which ferrous metals or nonferrous metals are
13 converted into raw material products consisting of prepared
14 grades and having an existing or potential economic value. The
15 term does not include a pawnbroker licensed pursuant to
16 Chapter 19A of Title 5.

17 "§13A-8-31.

18 "(a) A secondary metals recycler shall maintain a
19 legible record of all purchase transactions of ferrous or
20 nonferrous metals that have served their original economic
21 purpose to which the secondary metals recycler is a party. The
22 record shall include all of the following information:

23 "(1) The name and address of the secondary metals
24 recycler.

25 "(2) The date of the transaction.

26 "(3) The weight, quantity, or volume and a
27 description of the type of metal property purchased in a

1 purchase transaction. For purposes of this subdivision, the
2 term "type of metal property" shall include a general physical
3 description, such as wire, tubing, extrusions, or casting.

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

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

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

12 "(7) The distinctive number from, and type of, the
13 personal identification card of the person delivering the
14 metal property to the secondary metals recycler.

15 "(8) The vehicle license tag number, state of issue,
16 and the type of vehicle, if available, used to deliver the
17 metal property to the secondary metals recycler. For purposes
18 of this subdivision, the term "type of vehicle" shall mean an
19 automobile, pickup truck, van, or truck.

20 "~~(b) (1) For three years following September 1, 2007,~~
21 ~~the~~ The secondary metal recycler shall not enter into any cash
22 transactions in excess of one hundred dollars (\$100) for
23 copper or in excess of one thousand dollars (\$1,000) for all
24 other metals in payment for the purchase of the metal
25 property. Payment shall be made by check issued to the seller
26 of the metal. The check shall be payable to the name and
27 address of the seller of the metal and mailed to the recorded

1 address of the seller or picked up in person by the seller. At
2 ~~the end of three years, this subdivision shall be repealed and~~
3 ~~subdivision (2) shall apply. When payment is made by check,~~
4 ~~the secondary metals recycler may not hold the check. The~~
5 ~~secondary metals recycler, at his or her discretion, may make~~
6 ~~payment by either cash or check for transactions of one~~
7 ~~hundred dollars (\$100) or less for copper or one thousand~~
8 ~~dollars (\$1,000) or less for all other metals.~~

9 "~~(2) Commencing three years and one day following~~
10 ~~September 1, 2007, the secondary metal recycler shall not~~
11 ~~enter into any cash transactions in excess of one thousand~~
12 ~~dollars (\$1,000) for any metals in payment for the purchase of~~
13 ~~the metal property. Payment shall be made by check issued to~~
14 ~~the seller of the metal. The check shall be payable to the~~
15 ~~name and address of the seller or picked up in person by the~~
16 ~~seller.~~

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

21 "§13A-8-37.

22 "(a) Any person selling metal property to a
23 secondary metals recycler in violation of this article shall
24 be guilty of a ~~Class A misdemeanor unless the transaction or~~
25 ~~transactions in violation of this article are in an aggregate~~
26 ~~amount which exceeds two hundred fifty dollars (\$250), in~~
27 ~~which case the person shall be guilty of a Class C felony. ;~~

1 "(1) A Class A misdemeanor if the value of the
2 transaction or transactions in an aggregate amount plus the
3 cost of repairing any damage caused during the commission of
4 the theft of the metal property is less than two hundred fifty
5 dollars (\$250).

6 "(2) A Class C felony if the value of the
7 transaction or transactions in an aggregate amount plus the
8 cost of repairing any damage caused during the commission of
9 the theft of the property is two hundred fifty dollars (\$250)
10 or more.

11 "(b) At the time of sentencing of any person
12 convicted under this article, the judge shall order
13 restitution in an amount determined by the court; provided,
14 however, the amount shall not be less than the value of the
15 metal property determined to have been stolen, plus the cost
16 to repair any and all damage caused during the commission of
17 the crime for which the person is convicted.

18 ~~(b)~~(c) Any secondary metals recycler who knowingly
19 and intentionally engages in any practice which constitutes a
20 violation of this article shall be guilty of a misdemeanor,
21 provided that if a secondary metals recycler knowingly and
22 intentionally engages in a pattern of practices which
23 constitutes a violation of this article and the transactions
24 included in this pattern are in an aggregate amount which
25 exceeds five hundred dollars (\$500), the secondary metals
26 recycler shall be guilty of a Class C felony.

27 "§13A-8-39.

1 "This article shall apply to all businesses
2 regulated under this article without regard to the location
3 within the State of Alabama and shall take precedence over any
4 and all local ordinances ~~to the contrary~~ governing purchase
5 transactions of metal property by a secondary metals recycler.

6 Section 2. Although this bill would have as its
7 purpose or effect the requirement of a new or increased
8 expenditure of local funds, the bill is excluded from further
9 requirements and application under Amendment 621, now
10 appearing as Section 111.05 of the Official Recompilation of
11 the Constitution of Alabama of 1901, as amended, because the
12 bill defines a new crime or amends the definition of an
13 existing crime.

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