

1 HB298
2 116897-2
3 By Representative Wood
4 RFD: Judiciary
5 First Read: 14-JAN-10

1 ENGROSSED

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3
4 A BILL

5 TO BE ENTITLED

6 AN ACT

7
8 To amend Sections 13A-8-30, 13A-8-31, 13A-8-37, and
9 13A-8-39, Code of Alabama 1975, relating to the sale of
10 certain metal property to secondary metals recyclers and
11 providing penalties for sellers violating the act; to specify
12 that certain record keeping requirements and limitations on
13 purchase transactions apply only to metal property that has
14 served its original economic purpose; to remove the three-year
15 limitation on prohibiting certain cash transactions for copper
16 purchases; to provide that Article 1A, Chapter 8 of Title 13A
17 shall take precedence over local ordinances governing purchase
18 transactions by a secondary metals recycler; and in connection
19 therewith would have as its purpose or effect the requirement
20 of a new or increased expenditure of local funds within the
21 meaning of Amendment 621 of the Constitution of Alabama of
22 1901, now appearing as Section 111.05 of the Official
23 Recompileation of the Constitution of Alabama of 1901, as
24 amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§13A-8-30.

5 "As used in this article, the following terms have
6 the following meanings:

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

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

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

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

19 "(5) PERSON. An individual, partnership,
20 corporation, joint venture, trust, association, or any other
21 legal entity.

22 "(6) PERSONAL IDENTIFICATION CARD. A driver's
23 license or identification card issued by the Department of
24 Public Safety or a similar card issued by another state, a
25 military identification card, a passport, or an appropriate

1 work authorization issued by the U.S. Citizenship and
2 Immigration Services of the Department of Homeland Security.

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

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

16 "§13A-8-31.

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

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

24 "(2) The date of the transaction.

25 "(3) The weight, quantity, or volume and a
26 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

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

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

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

22 "§13A-8-37.

23 "(a) Any person selling metal property to a
24 secondary metals recycler in violation of this article shall
25 be guilty of a ~~Class A misdemeanor unless the transaction or~~
26 ~~transactions in violation of this article are in an aggregate~~

1 amount which exceeds two hundred fifty dollars (\$250), in
2 which case the person shall be guilty of a Class C felony. :

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

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

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

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

23 "(2) A Class C felony if the value of the
24 transaction or transactions in an aggregate amount exceeds
25 five hundred dollars (\$500), but does not exceed two thousand
26 five hundred dollars (\$2,500) in value.

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

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

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

15 "§13A-8-39.

16 "This article shall apply to all businesses
17 regulated under this article without regard to the location
18 within the State of Alabama and shall take precedence over any
19 and all local ordinances ~~to the contrary~~ governing purchase
20 transactions of metal property by a secondary metals recycler;
21 provided however, that any ordinance in effect on the
22 effective date of this act shall be held to be in full force
23 and effect and shall not be subject to this section.

24 Section 2. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now
2 appearing as Section 111.05 of the Official ReCompilation of
3 the Constitution of Alabama of 1901, as amended, because the
4 bill defines a new crime or amends the definition of an
5 existing crime.

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 14-JAN-10

Read for the second time and placed
on the calendar with 1 substitute
and 21-JAN-10

Read for the third time and passed
as amended 04-MAR-10

Yeas 103, Nays 0, Abstains 0

Greg Pappas
Clerk