

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

1
2 ENROLLED, An Act,

3 To amend Sections 13A-8-30, 13A-8-31, 13A-8-37, and
4 13A-8-39, Code of Alabama 1975, relating to the sale of
5 certain metal property to secondary metals recyclers and
6 providing penalties for sellers violating the act; to specify
7 that certain record keeping requirements and limitations on
8 purchase transactions apply only to metal property that has
9 served its original economic purpose; to remove the three-year
10 limitation on prohibiting certain cash transactions for copper
11 purchases; to provide that Article 1A, Chapter 8 of Title 13A
12 shall take precedence over local ordinances governing purchase
13 transactions by a secondary metals recycler; and in connection
14 therewith would have as its purpose or effect the requirement
15 of a new or increased expenditure of local funds within the
16 meaning of Amendment 621 of the Constitution of Alabama of
17 1901, now appearing as Section 111.05 of the Official
18 Recompilation of the Constitution of Alabama of 1901, as
19 amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

24 "§13A-8-30.

1 "As used in this article, the following terms have
2 the following meanings:

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

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

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

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

15 "(5) PERSON. An individual, partnership,
16 corporation, joint venture, trust, association, or any other
17 legal entity.

18 "(6) PERSONAL IDENTIFICATION CARD. A driver's
19 license or identification card issued by the Department of
20 Public Safety or a similar card issued by another state, a
21 military identification card, a passport, or an appropriate
22 work authorization issued by the U.S. Citizenship and
23 Immigration Services of the Department of Homeland Security.

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

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

14 "§13A-8-31.

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

20 "(1) The name and address of the secondary metals
21 recycler.

22 "(2) The date of the transaction.

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

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

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

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

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

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

1 ~~transactions in violation of this article are in an aggregate~~
2 ~~amount which exceeds two hundred fifty dollars (\$250), in~~
3 ~~which case the person shall be guilty of a Class C felony. :~~

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

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

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

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

24 ~~"(2) A Class C felony if the value of the~~
25 ~~transaction or transactions in an aggregate amount exceeds~~

1 five hundred dollars (\$500), but does not exceed two thousand
2 five hundred dollars (\$2,500) in value.

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

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

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

17 "§13A-8-39.

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

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

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 04-MAR-10, as amended.

Greg Pappas
Clerk

Senate

14-APR-10

Passed