

1 HB278
2 143145-2
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13 RFD: Judiciary
14 First Read: 09-FEB-12

1
2 ENROLLED, An Act,

3 To amend Sections 13A-8-30, 13A-8-31, 13A-8-32,
4 13A-8-33, 13A-8-34, 13A-8-35, 13A-8-36, 13A-8-37, and
5 13A-8-39, Code of Alabama 1975, relating to secondary metals
6 recyclers, to require a secondary metals recycler to maintain
7 additional records relating to the purchase of ferrous and
8 nonferrous metals; to further provide for the limits on
9 purchases by secondary metals recyclers for certain metal; to
10 require secondary metals recyclers to register with the
11 Alabama Criminal Justice Information Center (ACJIC) or other
12 responsible agency; ACJIC or another responsible agency to
13 maintain a database of certain information collected by
14 secondary metals recyclers relating to the purchase of metal
15 products; provide certain civil immunity for public or private
16 owners of metal property for certain injuries related to metal
17 property; to provide criminal penalties for damaging or
18 destroying certain metal property and would provide further
19 criminal penalties for the possession of certain stolen metal
20 property; to place restrictions on secondary metals recyclers
21 relating to the purchase of specified metal property; to add
22 Sections 13A-8-31.1, 13A-8-31.2, 13A-8-35.1, 13A-8-37.1, and
23 13A-8-37.2 to the Code of Alabama 1975; and in connection
24 therewith would have as its purpose or effect the requirement
25 of a new or increased expenditure of local funds within the

1 meaning of Amendment 621 of the Constitution of Alabama of
2 1901, now appearing as Section 111.05 of the Official
3 Recompilation of the Constitution of Alabama of 1901, as
4 amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 13A-8-30, 13A-8-31, 13A-8-32,
7 13A-8-33, 13A-8-34, 13A-8-35, 13A-8-36, 13A-8-37, and
8 13A-8-39, Code of Alabama 1975, are amended to read as
9 follows:

10 "§13A-8-30.

11 "As used in this article, the following terms have
12 the following meanings:

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

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

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

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

1 "(5) PERSON. An individual, partnership,
2 corporation, joint venture, trust, association, or any other
3 legal entity.

4 "(6) PERSONAL IDENTIFICATION CARD. A driver's
5 license or identification card issued by the Department of
6 Public Safety or a similar card issued by another state, a
7 military identification card, a passport, or an appropriate
8 work authorization issued by the U.S. Citizenship and
9 Immigration Services of the Department of Homeland Security.

10 "(7) PHOTOGRAPH. A still photographic image,
11 including images captured in digital format, which are of such
12 quality that the persons and objects depicted are
13 identifiable.

14 "~~(7)~~ (8) PURCHASE TRANSACTION. A transaction in
15 which a secondary metals recycler gives consideration in
16 exchange for regulated metal property.

17 "~~(8)~~ (9) SECONDARY METALS RECYCLER. Any person,
18 whether licensed or not licensed, who is engaged, from a fixed
19 location or otherwise, in the business of paying compensation
20 for ferrous or nonferrous metals, whether or not engaged in
21 the business of performing the manufacturing process by which
22 ferrous metals or nonferrous metals are converted into raw
23 material products consisting of prepared grades and having an
24 existing or potential economic value. The term does not
25 include a pawnbroker licensed pursuant to Chapter 19A of Title

1 5, or a licensed automotive dismantler and parts recycler as
 2 defined in Section 40-12-410, unless the entities engage in
 3 the business of paying compensation for ferrous or nonferrous
 4 metals.

5 "(10) VERIFIABLE DOCUMENTATION. Written evidence of
 6 ownership which may be verified, including, but not limited
 7 to, receipts, bills of sale, titles, certificates of title,
 8 purchase agreements, shipping manifests, work orders, etc.

9 "§13A-8-31.

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

15 "(1) The name and address of the secondary metals
 16 recycler.

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

20 ~~"(2)~~ (3) The date and time of the transaction.

21 ~~"(3)~~ (4) The weight, quantity, or volume and a
 22 description of the type of metal property purchased in a
 23 purchase transaction. For purposes of this subdivision, the
 24 term "type of metal property" shall include a general physical
 25 description, such as wire, tubing, extrusions, or casting.

1 "~~(4)~~ (5) The amount of consideration given in a
2 purchase transaction for the metal property.

3 "~~(5)~~ (6) A signed statement from the person
4 receiving consideration in the purchase transaction stating
5 that he or she is the rightful owner of the metal property or
6 is ~~entitled~~ authorized to sell the metal property being sold.

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

10 "~~(7)~~ (8) ~~The~~ A photocopy or scanned copy of the
11 personal identification card of the person delivering the
12 metal property to the secondary metals recycler, including the
13 distinctive number from, and type of, the personal
14 identification card of the person delivering the metal
15 property to the secondary metals recycler.

16 "~~(8)~~ (9) The vehicle license tag number, and state
17 of issue, or the vehicle identification number if no vehicle
18 license tag is available, and the type of vehicle, ~~if~~
19 ~~available,~~ used to deliver the metal property to the secondary
20 metals recycler. For purposes of this subdivision, the term
21 "type of vehicle" shall mean an automobile, pickup truck, van,
22 or truck.

23 "(10) A digital photograph or video recording of the
24 person delivering or receiving consideration for the metal
25 property delivered to the secondary metals recycler in which

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

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

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

22 "(c) Any person who intentionally violates the
23 requirements of subsections (a) or (b) shall be guilty of a
24 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 within a ten (10) year period.

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

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

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

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

1 "(2) Upon receipt of the extended hold notice, the
2 secondary metals recycler may not process or remove the items
3 of metal property identified in the notice, or any portion
4 thereof, from the place of business of the secondary metals
5 recycler for 30 calendar days after receipt of the extended
6 hold notice by the secondary metals recycler, unless sooner
7 released by a law enforcement officer.

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

14 "(d) Any person who intentionally violates the
15 requirements of subsection (a) or (b) shall be guilty of a
16 Class B misdemeanor for a first offense, a Class A misdemeanor
17 for a second offense, and a Class C felony for a third or
18 subsequent offense within a ten (10) year period.

19 "§13A-8-34.

20 "(a) If the secondary metals recycler contests the
21 identification or ownership of the metal property, the party
22 other than the secondary metals recycler claiming ownership of
23 any metal property in the possession of ~~a~~ the secondary metals
24 recycler may, provided that a timely report of the theft of
25 the metal property was made to the proper authorities, bring

1 an action in the circuit court of the county in which the
2 secondary metals recycler is located. The petition for the
3 action shall include a description of the means of
4 identification of the metal property utilized by the
5 petitioner to determine ownership of the metal property in the
6 possession of the secondary metals recycler. If the person who
7 sold the metal property to the secondary metals recycler is
8 convicted of theft of property or criminal mischief related to
9 the removal of the metal property, the court shall order the
10 defendant to make full restitution to the victim including,
11 without limitation, attorney fees, court costs, and property
12 damage which resulted from the theft of property, and other
13 expenses.

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

22 "§13A-8-35.

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

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

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

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

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

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

17 "(6) A municipal, county, state, federal, or other
18 governmental entity.

19 "(7) A utility company.

20 "(8) A funeral home or the owner or operator of a
21 cemetery.

22 "§13A-8-36.

23 "(a) ~~It shall be unlawful for any person to give a~~
24 ~~false statement of ownership or to give a false or altered~~
25 ~~identification or vehicle tag number and receive money or~~

1 ~~other consideration from a secondary metals recycler in return~~
2 ~~for metal property. is unlawful for a person with the intent~~
3 ~~to damage property and having no right to do so or any~~
4 ~~reasonable ground to believe that he or she has such a right,~~
5 ~~damages or destroys any of the following:~~

6 "(1) Telecommunications, cable communications, or
7 electric power transmission pedestal or pole owned or operated
8 by a telecommunications, cable, or electric power company or
9 cooperative, or electric power supplier, or railroad.

10 "(2) Telecommunications, cable communications, or
11 electric power grounding or any other equipment or materials
12 used in the delivery of electricity, wire, fiber insulator,
13 power supply transformer, ground wire, or other apparatus,
14 equipment, or fixture used in the transmission of
15 telecommunications, cable communications, or electric power
16 owned or operated by a telecommunications, cable, or electric
17 power company or cooperative, or electric power supplier, or
18 railroad.

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

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

23 "(5) Railroad materials and lading, including, but
24 not limited to, any rail telecommunications; cable
25 communications; power and signal equipment and wires;

1 road/rail crossing signals, equipment, and wires; metal
2 property lading being transported by a railroad; and any
3 railroad track and other operating materials, including switch
4 component, spike, angle bar, tie plate or bolt of the type
5 used in constructing railroads.

6 "(6) Electric power line, gas line, water line, wire
7 or fiber insulators, electric motors or other apparatus,
8 heating and cooling systems, and environmental control systems
9 that are connected to farm shops, on-farm grain drying and
10 storage complexes, animal production facilities, irrigation
11 systems, greenhouse facilities, or other agricultural,
12 forestry, or food-related activities, equipment, structures,
13 systems, or vehicles.

14 "(7) Any electric power line, gas line, water line,
15 wire or fiber insulators, fencing, gates, security structures,
16 electric motors or other apparatus, metering instruments,
17 communications antenna, environmental control systems, and
18 processing plants that are connected to oil, natural gas,
19 coalbed methane, shale gas, or other petroleum producing
20 properties, equipment, structures, systems, or vehicles.

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

23 "(9) 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 "(10) Utility access covers, manhole covers, or
14 storm drain covers, unless the seller is a company that deals
15 in the manufacture or sale of the aforementioned products.

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

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

1 "(c) Any person in violation of this section shall
2 be guilty of a Class B felony if the damage or destruction
3 causes imminent danger to the health and safety of the public,
4 a metal owner's employees, first responders, law enforcement
5 officers, or utility workers, or cause an interruption in
6 communications services or electric utility services. For
7 purposes of this subsection, "imminent danger" means the
8 existence of any condition that could hinder or disrupt the
9 normal operation of equipment, systems, or services provided
10 for the health and safety of the public, metal owner's
11 employees, first responders, law enforcement officers, or
12 utility workers or cause an interruption in communications
13 services or electric utility services.

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

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:~~

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

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

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

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

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

22 ~~" (a) It is unlawful for a person to possess or~~
23 ~~control the following property knowing that it has been stolen~~
24 ~~or having reasonable grounds to believe it has been stolen,~~

1 unless the property is possessed or controlled with intent to
 2 restore it to the owner:

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

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

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

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

15 "(5) Highway or street signs, traffic light signals,
 16 and traffic directional and control signs unless the seller is
 17 a company that deals in the manufacture or sale of the
 18 aforementioned products.

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

22 "(7) Metal beer kegs including those made of
 23 stainless steel that are clearly marked as being the property
 24 of a beer manufacturer unless the seller is a company that

1 deals in the manufacture or sale of the aforementioned
2 products.

3 "(8) Metal property marked with the name of a
4 government entity.

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

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

13 "(11) 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 "(b) Any person who violates the requirements of
4 subdivision (a)(2) or (a)(10) shall be guilty of a Class C
5 felony for a first offense, a Class B felony for a second
6 offense, and a Class A felony for a third or subsequent
7 offense within a ten (10) year period.

8 "(c) Any person who violates the requirements of
9 subdivision (1), (3), (4), (5), (6), (7), (8), or (9) of
10 subsection (a) shall be guilty of a Class B misdemeanor for a
11 first offense, a Class A misdemeanor for a second offense, and
12 a Class C felony for a third or subsequent offense within a
13 ten (10) year period.

14 "§13A-8-39.

15 "This article shall apply to all businesses
16 regulated under this article without regard to the location
17 within the State of Alabama and shall take precedence over any
18 and all local ordinances governing purchase transactions of
19 metal property by a secondary metals recycler; ~~provided~~
20 ~~however, that any ordinance in effect on July 1, 2010, shall~~
21 ~~be held to be in full force and effect and shall not be~~
22 ~~subject to this section."~~

23 Section 2. Sections 13A-8-31.1, 13A-8-31.2,
24 13A-8-35.1, 13A-8-37.1, and 13A-8-37.2, are added to the Code
25 of Alabama 1975, as follows:

1 §13A-8-31.1.

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

11 (b) It shall be unlawful for a secondary metals
12 recycler to purchase metal property from a person younger than
13 18 years of age.

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

16 (d) Any person who intentionally violates the
17 requirements of this section shall be guilty of a Class B
18 misdemeanor for a first offense, a Class A misdemeanor for a
19 second offense, and a Class C felony for a third or subsequent
20 offense within a ten (10) year period.

21 §13A-8-31.2.

22 (a) All secondary metals recyclers subject to this
23 chapter shall register with the Alabama Criminal Justice
24 Information Center (ACJIC) within 30 days of the effective
25 date of this section and shall pay an annual registration fee

1 of two hundred fifty dollars (\$250) to ACJIC. In the event the
2 electronic reporting system is not fully implemented by the
3 effective date of this act, the record maintenance and
4 reporting requirements of the current law shall remain in full
5 force and effect until such time as the ACJIC electronic
6 reporting system is fully implemented. The registration shall
7 include the name of the business, address of the business,
8 telephone number, and the name of the owner or owners of the
9 business.

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

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

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

9 (c) Any person who intentionally violates the
10 requirements of this section shall be guilty of a Class B
11 misdemeanor for a first offense, a Class A misdemeanor for a
12 second offense, and a Class C felony for a third or subsequent
13 offense within a ten (10) year period.

14 §13A-8-35.1.

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

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

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

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

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

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

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

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

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

3 §13A-8-37.2.

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

10 Section 3. This act shall become effective on the
11 first day of the third month following its passage and
12 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 01-MAR-12, as amended.

Greg Pappas
Clerk

Senate	<hr/> 08-MAY-12 <hr/>	Amended and Passed
House	10-MAY-12 <hr/>	Passed, as amended by Conference Com- mittee Report
Senate	<hr/> 10-MAY-12 <hr/>	Passed, as amended by Conference Com- mittee Report