

1 HB278  
2 136303-2  
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13 RFD: Judiciary  
14 First Read: 09-FEB-12

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8 SYNOPSIS: Under existing law, secondary metals  
9 recyclers must maintain certain records relating to  
10 all purchase transactions of ferrous or nonferrous  
11 metals. Also under existing law, a secondary metals  
12 recycler is subject to certain criminal penalties  
13 for the failure to comply with the record-keeping  
14 requirements, as well as other laws regulating the  
15 sale of these metals.

16 This bill would require a secondary metals  
17 recycler to maintain additional records relating to  
18 the purchase of ferrous and nonferrous metals,  
19 including a photocopy or scanned copy of the  
20 personal identification card of the person  
21 delivering the metal property and a digital  
22 photograph or video recording of the person  
23 delivering the metal property, and would provide  
24 criminal penalties for failing to obtain and  
25 maintain certain records.

26 This bill would further provide for the  
27 limits on purchases by secondary metals recyclers

1 for certain metals, including copper, and would  
2 provide criminal penalties for violations.

3 This bill would require secondary metals  
4 recyclers to register with the Alabama Criminal  
5 Justice Information Center (ACJIC) or other  
6 responsible agency and would require ACJIC or  
7 another responsible agency to maintain a database  
8 of certain information collected by secondary  
9 metals recyclers relating to the purchase of metal  
10 products.

11 This bill would provide certain civil  
12 immunity for public or private owners of metal  
13 property for certain injuries related to metal  
14 property.

15 This bill would provide criminal penalties  
16 for a person who damages or destroys certain metal  
17 property and would provide further criminal  
18 penalties for the possession of certain stolen  
19 metal property.

20 This bill would also place restrictions on  
21 secondary metals recyclers relating to the purchase  
22 of catalytic converters, copper wire, and other  
23 specified metal property.

24 Amendment 621 of the Constitution of Alabama  
25 of 1901, now appearing as Section 111.05 of the  
26 Official Recompilation of the Constitution of  
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a  
2 new or increased expenditure of local funds from  
3 becoming effective with regard to a local  
4 governmental entity without enactment by a 2/3 vote  
5 unless: it comes within one of a number of  
6 specified exceptions; it is approved by the  
7 affected entity; or the Legislature appropriates  
8 funds, or provides a local source of revenue, to  
9 the entity for the purpose.

10 The purpose or effect of this bill would be  
11 to require a new or increased expenditure of local  
12 funds within the meaning of the amendment. However,  
13 the bill does not require approval of a local  
14 governmental entity or enactment by a 2/3 vote to  
15 become effective because it comes within one of the  
16 specified exceptions contained in the amendment.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT  
21

22 To amend Sections 13A-8-30, 13A-8-31, 13A-8-32,  
23 13A-8-33, 13A-8-34, 13A-8-35, 13A-8-36, 13A-8-37, and  
24 13A-8-39, Code of Alabama 1975, relating to secondary metals  
25 recyclers, to require a secondary metals recycler to maintain  
26 additional records relating to the purchase of ferrous and  
27 nonferrous metals; to further provide for the limits on

1 purchases by secondary metals recyclers for certain metal; to  
2 require secondary metals recyclers to register with the  
3 Alabama Criminal Justice Information Center (ACJIC) or other  
4 responsible agency; ACJIC or another responsible agency to  
5 maintain a database of certain information collected by  
6 secondary metals recyclers relating to the purchase of metal  
7 products; provide certain civil immunity for public or private  
8 owners of metal property for certain injuries related to metal  
9 property; to provide criminal penalties for damaging or  
10 destroying certain metal property and would provide further  
11 criminal penalties for the possession of certain stolen metal  
12 property; to place restrictions on secondary metals recyclers  
13 relating to the purchase of specified metal property; to add  
14 Sections 13A-8-31.1, 13A-8-31.2, 13A-8-35.1, 13A-8-37.1, and  
15 13A-8-37.2 to the Code of Alabama 1975; and in connection  
16 therewith would have as its purpose or effect the requirement  
17 of a new or increased expenditure of local funds within the  
18 meaning of Amendment 621 of the Constitution of Alabama of  
19 1901, now appearing as Section 111.05 of the Official  
20 Recompilation of the Constitution of Alabama of 1901, as  
21 amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 13A-8-30, 13A-8-31, 13A-8-32,  
24 13A-8-33, 13A-8-34, 13A-8-35, 13A-8-36, 13A-8-37, and  
25 13A-8-39, Code of Alabama 1975, are amended to read as  
26 follows:

27 "§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, excluding motor  
5 vehicles purchased in accordance with Section 32-8-87.

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

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

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

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

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

25           "(7) PHOTOGRAPH. A still photographic image,  
26 including images captured in digital format, which are of such

1 quality that the persons and objects depicted are  
2 identifiable.

3 ~~"(7)~~ (8) PURCHASE TRANSACTION. A transaction in  
4 which a secondary metals recycler gives consideration in  
5 exchange for regulated metal property.

6 ~~"(8)~~ (9) SECONDARY METALS RECYCLER. Any person,  
7 whether licensed or not licensed, who is engaged, from a fixed  
8 location or otherwise, in the business of paying compensation  
9 for ferrous or nonferrous metals, whether or not engaged in  
10 the business of performing the manufacturing process by which  
11 ferrous metals or nonferrous metals are converted into raw  
12 material products consisting of prepared grades and having an  
13 existing or potential economic value. The term does not  
14 include a pawnbroker licensed pursuant to Chapter 19A of Title  
15 5, or a licensed automotive dismantler and parts recycler as  
16 defined in Section 40-12-410, unless the entities engage in  
17 the business of paying compensation for ferrous or nonferrous  
18 metals.

19 "§13A-8-31.

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

25 "(1) The name and address of the secondary metals  
26 recycler.

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

4           "~~(2)~~ (3) The date and time of the transaction.

5           "~~(3)~~ (4) The weight, quantity, or volume and a  
6 description of the type of metal property purchased in a  
7 purchase transaction. For purposes of this subdivision, the  
8 term "type of metal property" shall include a general physical  
9 description, such as wire, tubing, extrusions, or casting.

10           "~~(4)~~ (5) The amount of consideration given in a  
11 purchase transaction for the metal property.

12           "~~(5)~~ (6) A signed statement from the person  
13 receiving consideration in the purchase transaction stating  
14 that he or she is the rightful owner of the metal property or  
15 is ~~entitled~~ authorized to sell the metal property being sold.

16           "~~(6)~~ (7) The name and address of the person  
17 delivering the metal property to the secondary metals  
18 recycler.

19           "~~(7)~~ (8) ~~The~~ A photocopy or scanned copy of the  
20 personal identification card of the person delivering the  
21 metal property to the secondary metals recycler, including the  
22 distinctive number from, and type of, the personal  
23 identification card of the person delivering the metal  
24 property to the secondary metals recycler.

25           "~~(8)~~ (9) The vehicle license tag number, and state  
26 of issue, or the vehicle identification number if no vehicle  
27 license tag is available, and the type of vehicle, ~~if~~



1 ~~available,~~ used to deliver the metal property to the secondary  
2 metals recycler. For purposes of this subdivision, the term  
3 "type of vehicle" shall mean an automobile, pickup truck, van,  
4 or truck.

5 "(10) A digital photograph or video recording of the  
6 person delivering or receiving consideration for the metal  
7 property delivered to the secondary metals recycler in which  
8 the person's facial features are clearly visible and a  
9 photograph or video recording of the metal property as  
10 delivered or sold in which the type of metal property is  
11 identifiable. The time and date shall be digitally recorded on  
12 the photographs or video recording.

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

25 ~~"(c) (b)~~ A secondary metals recycler shall maintain  
26 or cause to be maintained the information required by

1 subsection (a) for not less than ~~two years~~ one year from the  
2 date of the purchase transaction.

3 "(c) Any person who intentionally violates the  
4 requirements of subsections (a) or (b) shall be guilty of a  
5 Class B misdemeanor for a first offense, a Class A misdemeanor  
6 for a second offense, and a Class C felony for a third or  
7 subsequent offense.

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

13 "§13A-8-32.

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

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

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

23 "§13A-8-33.

24 "(a) (1) Whenever a law enforcement officer has  
25 reasonable ~~cause~~ suspicion to believe that any item of metal  
26 property in the possession of a secondary metals recycler has  
27 been stolen, the law enforcement officer, ~~who has an affidavit~~

1 ~~from the alleged rightful owner of the property identifying~~  
2 ~~the property with specificity, including any identifying~~  
3 ~~markings,~~ may issue a hold notice to the secondary metals  
4 recycler. The hold notice shall be in writing, shall be  
5 delivered to the secondary metals recycler, shall specifically  
6 identify those items of metal property that are believed to  
7 have been stolen and that are subject to the notice, and shall  
8 inform the secondary metals recycler of the information  
9 contained in this section.

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

17 "(b) (1) No later than the expiration of the 15-day  
18 period, a law enforcement officer after receiving additional  
19 substantive evidence ~~beyond the initial affidavit~~ may issue a  
20 second hold notice to the secondary metals recycler, which  
21 shall be an extended hold notice. The extended hold notice  
22 shall be in writing, shall be delivered to the secondary  
23 metals recycler, shall specifically identify those items of  
24 metal property that are believed to have been stolen and that  
25 are subject to the extended hold notice, and shall inform the  
26 secondary metals recycler of the information contained in this  
27 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.

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  
26 an action in the circuit court of the county in which the  
27 secondary metals recycler is located. The petition for the

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

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

20 "§13A-8-35.

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

23 "(1) A law enforcement officer acting in an official  
24 capacity unless the law enforcement officer is investigating a  
25 compliance issue pursuant to this chapter or is presenting  
26 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 railroad.

26           "(2) Telecommunications, cable communications, or  
27 electric power grounding or any other equipment or materials

1 used in the delivery of electricity, wire, fiber insulator,  
2 power supply transformer, ground wire, or other apparatus,  
3 equipment, or fixture used in the transmission of  
4 telecommunications, cable communications, or electric power  
5 owned or operated by a telecommunications, cable, or electric  
6 power company or cooperative, or railroad.

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

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

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

19 "(6) Electric power line, gas line, water line, wire  
20 or fiber insulators, electric motors or other apparatus,  
21 heating and cooling systems, and environmental control systems  
22 that are connected to farm shops, on-farm grain drying and  
23 storage complexes, animal production facilities, irrigation  
24 systems, greenhouse facilities, or other agricultural,  
25 forestry, or food-related activities, equipment, structures,  
26 systems, or vehicles.

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

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

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

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

25           "(d) At the time of sentencing of any person  
26 convicted under this section, the judge may order restitution  
27 in an amount determined by the court; provided, however, the



1 amount shall not be less than the value of the metal property  
2 determined to have been damaged or stolen and shall include  
3 the cost of replacement and the cost to repair any and all  
4 damage caused during the commission of the crime for which the  
5 person is convicted.

6 "§13A-8-37.

7 ~~"(a) Any person selling metal property to a~~  
8 ~~secondary metals recycler in violation of this article shall~~  
9 ~~be guilty of:~~

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

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

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

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

22 ~~"(c) Any secondary metals recycler who knowingly and~~  
23 ~~intentionally engages in any practice which constitutes a~~  
24 ~~violation of this article shall be guilty of a misdemeanor,~~  
25 ~~provided that if a secondary metals recycler knowingly and~~  
26 ~~intentionally engages in a pattern of practices which~~  
27 ~~constitutes a violation of this article and the transactions~~

1 included in this pattern are in an aggregate amount which  
2 exceeds five hundred dollars (\$500), the secondary metals  
3 recycler shall be guilty of a Class C felony.

4 " (a) It is unlawful for a person to possess or  
5 control the following property knowing that it has been stolen  
6 or having reasonable grounds to believe it has been stolen,  
7 unless the property is possessed or controlled with intent to  
8 restore it to the owner:

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

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

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

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

21 "(5) Highway or street signs, traffic light signals,  
22 and traffic directional and control signs unless the seller is  
23 a company that deals in the manufacture or sale of the  
24 aforementioned products.

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

1           "(7) Metal beer kegs including those made of  
2           stainless steel that are clearly marked as being the property  
3           of a beer manufacturer unless the seller is a company that  
4           deals in the manufacture or sale of the aforementioned  
5           products.

6           "(8) Metal property marked with the name of a  
7           government entity.

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

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

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

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

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

9            Section 2. Sections 13A-8-31.1, 13A-8-31.2,  
10 13A-8-35.1, 13A-8-37.1, and 13A-8-37.2, are added to the Code  
11 of Alabama 1975, as follows:

12            §13A-8-31.1.

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

22            (b) It shall be unlawful for a secondary metals  
23 recycler to purchase metal property from a person younger than  
24 18 years of age.

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

1 (d) Any person who intentionally violates the  
2 requirements of this section shall be guilty of a Class B  
3 misdemeanor for a first offense, a Class A misdemeanor for a  
4 second offense, and a Class C felony for a third or subsequent  
5 offense.

6 §13A-8-31.2.

7 (a) All secondary metals recyclers subject to this  
8 chapter shall register with the Alabama Criminal Justice  
9 Information Center (ACJIC) or other responsible state agency  
10 within 30 days of the effective date of this section. The  
11 registration shall include the name of the business, address  
12 of the business, telephone number, and the name of the owner  
13 or owners of the business.

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

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

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

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

19 §13A-8-35.1.

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

24 (b) A public or private owner of metal property is  
25 not civilly liable for a person's injuries caused by a  
26 dangerous condition created as a result of the theft or  
27 attempted theft of the owner's metal property in any amount

1 when the owner of the metal property did not know and could  
2 not have reasonably known of the dangerous condition.

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

6 §13A-8-37.1.

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

13 (1) Catalytic convertors that are not part of an  
14 entire motor vehicle.

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

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

22 (4) A copper, aluminum, or aluminum-copper  
23 condensing or evaporating coil, including its tubing or rods,  
24 from a heating or air conditioning unit, excluding scrap from  
25 window air conditioning units and automobile condenser coils,  
26 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) Any metal property that has been brightly  
12 painted or marked to deter theft of the property.

13 (6) Ventilation fans or similar fans designed to  
14 supply fresh air to workers in confined spaces such as  
15 underground mines or other similar circumstances.

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

18 §13A-8-37.2.

19 Compliance by a secondary metals recycler with  
20 Sections 13A-8-31, 13A-8-31.1, 13A-8-31.2, and 13A-8-37.1,  
21 with regard to a purchase of metal property shall be  
22 recognized by law enforcement agencies and the Alabama state  
23 courts as evidence that the possession of the metal property  
24 is lawful.

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



