

1 A bill to be entitled
2 An act relating to transactions by secondhand dealers
3 and secondary metals recyclers; amending s. 538.03,
4 F.S.; defining the term "appropriate law enforcement
5 official"; deleting exemptions from regulation as a
6 secondhand dealer which relate to flea market
7 transactions and auction businesses; conforming
8 terminology; amending s. 538.04, F.S., relating to
9 recordkeeping requirements; conforming terminology and
10 clarifying provisions; amending s. 538.18, F.S.;
11 revising and providing definitions; amending s.
12 319.30, F.S.; conforming a cross-reference; providing
13 requirements for salvaged motor vehicles and mobile
14 homes; amending s. 538.19, F.S.; revising requirements
15 for the types of information that secondary metals
16 recyclers must obtain and maintain regarding purchase
17 transactions, including requirements for the
18 maintenance and transmission of electronic records of
19 such transactions; revising the period required for
20 secondary metals recyclers to maintain certain
21 information regarding purchase transactions involving
22 regulated metals property; limiting the liability of
23 secondary metals recyclers for the conversion of motor
24 vehicles to scrap metal under certain circumstances;
25 amending s. 538.235, F.S.; revising requirements for
26 payments made by secondary metals recyclers to sellers
27 of regulated metals property, to prohibit certain cash
28 transactions; providing penalties; providing methods

29 | of payment for restricted regulated metals property;
30 | requiring that purchases of certain property be made
31 | by check or by electronic payment; providing
32 | procedures; amending s. 538.25, F.S.; requiring an
33 | application for registration as a secondary metals
34 | recycler to contain the address of a fixed business
35 | location; amending s. 538.26, F.S.; prohibiting
36 | secondary metals recyclers from purchasing regulated
37 | metals property, restricted regulated metals property,
38 | or ferrous metals during specified times, from certain
39 | locations, or from certain sellers; prohibiting the
40 | purchase of specified restricted regulated metals
41 | property without obtaining certain proof of the
42 | seller's ownership and authorization to sell the
43 | property; providing penalties; creating s. 538.28,
44 | F.S.; preempting to the state the regulation of
45 | secondary metals recyclers and purchase transactions
46 | involving regulated metals property; providing
47 | exceptions; providing for applicability; amending s.
48 | 538.23, F.S.; increasing the criminal penalties for
49 | specified violations relating to secondary metals
50 | recycling; providing increased criminal penalties for
51 | third and subsequent criminal violations; amending s.
52 | 812.145, F.S., relating to theft of copper or other
53 | nonferrous metals from a utility or communications
54 | services provider; revising and providing definitions;
55 | providing civil liability and penalties; prohibiting
56 | removing copper or other nonferrous metals from an

57 | electrical substation site without authorization of
 58 | the utility; providing criminal penalties; providing
 59 | an effective date.

60 |

61 | Be It Enacted by the Legislature of the State of Florida:

62 |

63 | Section 1. Subsection (1) of section 538.03, Florida
 64 | Statutes, is amended, paragraphs (m) through (q) of subsection
 65 | (2) of that section are redesignated as paragraphs (l) through
 66 | (p), respectively, and present paragraphs (k), (l), and (n) of
 67 | that subsection are amended, to read:

68 | 538.03 Definitions; applicability.—

69 | (1) As used in this part, the term:

70 | (a)~~(e)~~ "Acquire" means to obtain by purchase, consignment,
 71 | or trade.

72 | (b) "Appropriate law enforcement official" means the
 73 | sheriff of the county in which a secondhand dealer is located
 74 | or, if the secondhand dealer is located within a municipality,
 75 | both the police chief of the municipality and the sheriff;
 76 | however, the sheriff or police chief may designate as the
 77 | appropriate law enforcement official for that county or
 78 | municipality, as applicable, any law enforcement officer working
 79 | within that respective county or municipality. This paragraph
 80 | does not limit the authority or duties of the sheriff.

81 | (c)~~(d)~~ "Consignment shop" means a shop engaging in the
 82 | business of accepting for sale, on consignment, secondhand goods
 83 | which, having once been used or transferred from the
 84 | manufacturer to the dealer, are then received into the

85 possession of a third party.

86 (d)~~(i)~~ "Department" means the Department of Revenue.

87 (e)~~(h)~~ "Precious metals" means any item containing any
88 gold, silver, or platinum, or any combination thereof, excluding
89 any chemical or any automotive, photographic, electrical,
90 medical, or dental materials or electronic parts.

91 (f)~~(b)~~ "Precious metals dealer" means a secondhand dealer
92 who normally or regularly engages in the business of buying used
93 precious metals for resale. The term does not include those
94 persons involved in the bulk sale of precious metals from one
95 secondhand or precious metals dealer to another.

96 (g)~~(a)~~ "Secondhand dealer" means any person, corporation,
97 or other business organization or entity which is not a
98 secondary metals recycler subject to part II and which is
99 engaged in the business of purchasing, consigning, or trading
100 secondhand goods.

101 (h)~~(f)~~ "Secondhand goods" means personal property
102 previously owned or used, which is not regulated metals property
103 regulated under part II and which is purchased, consigned, or
104 traded as used property. Such secondhand goods do not include
105 office furniture, pianos, books, clothing, organs, coins, motor
106 vehicles, costume jewelry, cardio and strength training or
107 conditioning equipment designed primarily for indoor use, and
108 secondhand sports equipment that is not permanently labeled with
109 a serial number. For purposes of this paragraph, "secondhand
110 sports equipment" does not include golf clubs.

111 (i)~~(e)~~ "Secondhand store" means the place or premises at
112 which a secondhand dealer is registered to conduct business as a

113 secondhand dealer or conducts business.

114 ~~(j)(g)~~ "Transaction" means any purchase, consignment, or
 115 trade of secondhand goods by a secondhand dealer.

116 (2) This chapter does not apply to:

117 (k) Any auction business as defined in s. 468.382
 118 operating as an auction business in the buying and selling of
 119 estates, business inventory, surplus merchandise, or business
 120 liquidations ~~Any person purchasing, consigning, or trading~~
 121 ~~secondhand goods at a flea market regardless of whether at a~~
 122 ~~temporary or permanent business location at the flea market.~~

123 ~~(l) Any auction business as defined in s. 468.382(1).~~

124 ~~(m)(n)~~ A business that contracts with other persons or
 125 entities to offer its secondhand goods for sale, purchase,
 126 consignment, or trade via an Internet website, and that
 127 maintains a shop, store, or other business premises for this
 128 purpose, if all of the following apply:

129 1. The secondhand goods must be available on the website
 130 for viewing by the public at no charge;

131 2. The records of the sale, purchase, consignment, or
 132 trade must be maintained for at least 2 years;

133 3. The records of the sale, purchase, consignment, or
 134 trade, and the description of the secondhand goods as listed on
 135 the website, must contain the serial number of each item, if
 136 any;

137 4. The secondhand goods listed on the website must be
 138 searchable based upon the state or zip code;

139 5. The business must provide the appropriate law
 140 enforcement official ~~agency~~ with the name or names under which

141 | it conducts business on the website;

142 | 6. The business must allow the appropriate law enforcement
 143 | official agency to inspect its business premises at any time
 144 | during normal business hours;

145 | 7. Any payment by the business resulting from such a sale,
 146 | purchase, consignment, or trade must be made to the person or
 147 | entity with whom the business contracted to offer the goods and
 148 | must be made by check or via a money services business licensed
 149 | under part II of chapter 560; and

150 | 8.a. At least 48 hours after the estimated time of
 151 | contracting to offer the secondhand goods, the business must
 152 | verify that any item having a serial number is not stolen
 153 | property by entering the serial number of the item into the
 154 | Department of Law Enforcement's stolen article database located
 155 | at the Florida Crime Information Center's public access system
 156 | website. The business shall record the date and time of such
 157 | verification on the contract covering the goods. If such
 158 | verification reveals that an item is stolen property, the
 159 | business shall immediately remove the item from any website on
 160 | which it is being offered and notify the appropriate law
 161 | enforcement official agency; or

162 | b. The business must provide the appropriate law
 163 | enforcement official agency with an electronic copy of the name,
 164 | address, phone number, driver ~~driver's~~ license number, and
 165 | issuing state of the person with whom the business contracted to
 166 | offer the goods, as well as an accurate description of the
 167 | goods, including make, model, serial number, and any other
 168 | unique identifying marks, numbers, names, or letters that may be

169 on an item, in a format agreed upon by the business and the
 170 appropriate law enforcement official ~~agency~~. This information
 171 must be provided to the appropriate law enforcement official
 172 ~~agency~~ within 24 hours after entering into the contract unless
 173 other arrangements are made between the business and the law
 174 enforcement official ~~agency~~.

175 Section 2. Subsections (1), (6), and (7) of section
 176 538.04, Florida Statutes, are amended to read:

177 538.04 Recordkeeping requirements; penalties.—

178 (1) A secondhand dealer ~~dealers~~ shall complete a
 179 secondhand dealers transaction form at the time of the actual
 180 transaction. A secondhand dealer shall maintain a copy of a
 181 completed transaction form on the registered premises for at
 182 least 1 year after the date of the transaction. However, the
 183 secondhand dealer shall maintain a copy of the transaction form
 184 for not less than 3 years. Unless other arrangements are ~~have~~
 185 ~~been~~ agreed upon by the secondhand dealer and the appropriate
 186 law enforcement official ~~agency~~, the secondhand dealer shall,
 187 within 24 hours after acquiring ~~the acquisition of~~ any
 188 secondhand goods, deliver to such official ~~the police department~~
 189 ~~of the municipality where the goods were acquired or, if the~~
 190 ~~goods were acquired outside of a municipality, to the sheriff's~~
 191 ~~department of the county where the goods were acquired,~~ a record
 192 of the transaction on a form approved by the Department of Law
 193 Enforcement. Such record shall contain:

- 194 (a) The time, date, and place of the transaction.
- 195 (b) A complete and accurate description of the goods
 196 acquired, including the following information, if applicable:

- 197 1. Brand name.
- 198 2. Model number.
- 199 3. Manufacturer's serial number.
- 200 4. Size.
- 201 5. Color, as apparent to the untrained eye.
- 202 6. Precious metal type, weight, and content if known.
- 203 7. Gemstone description, including the number of stones,
- 204 if applicable.
- 205 8. In the case of firearms, the type of action, caliber or
- 206 gauge, number of barrels, barrel length, and finish.
- 207 9. Any other unique identifying marks, numbers, or
- 208 letters.
- 209 (c) A description of the person from whom the goods were
- 210 acquired, including:
- 211 1. Full name, current residential address, workplace, and
- 212 home and work phone numbers.
- 213 2. Height, weight, date of birth, race, gender, hair
- 214 color, eye color, and any other identifying marks.
- 215 3. The right thumbprint, free of smudges and smears, of
- 216 the person from whom the goods were acquired.
- 217 (d) Any other information required by the form approved by
- 218 the Department of Law Enforcement.
- 219 (6) If the appropriate law enforcement official ~~agency~~
- 220 supplies a secondhand dealer with appropriate software and the
- 221 secondhand dealer has computer capability, the secondhand dealer
- 222 must ~~transactions shall be~~ electronically transmit secondhand
- 223 dealer transactions required by this section to such official
- 224 ~~transferred~~. If a secondhand dealer does not have computer

225 capability, the appropriate law enforcement official ~~agency~~ may
 226 provide the secondhand dealer with a computer and all equipment
 227 necessary ~~to equipment for the purpose of~~ electronically
 228 transmit ~~transferring~~ secondhand dealer transactions. The
 229 appropriate law enforcement official ~~agency~~ shall retain
 230 ownership of the computer, unless otherwise agreed upon, ~~and~~
 231 the secondhand dealer shall maintain the computer in good
 232 working order, except for ordinary wear ~~and tear~~ ~~excepted~~. ~~A~~ If
 233 ~~the~~ secondhand dealer who transmits ~~transfers~~ secondhand dealer
 234 transactions electronically, ~~the secondhand dealer~~ is not
 235 required to also deliver ~~to the appropriate law enforcement~~
 236 ~~agency~~ the original or paper copies of the secondhand
 237 transaction forms to the appropriate law enforcement official.
 238 However, such official may, for purposes ~~the purpose~~ of a
 239 criminal investigation, ~~the appropriate law enforcement agency~~
 240 ~~may~~ request ~~that~~ the secondhand dealer to deliver the ~~produce an~~
 241 original ~~of a~~ transaction form that was ~~has been~~ electronically
 242 transmitted ~~transferred~~. The secondhand dealer shall deliver the
 243 ~~this~~ form to the appropriate law enforcement official ~~agency~~
 244 within 24 hours after receipt of the request.

245 (7) If the original transaction form is lost or destroyed
 246 by the appropriate law enforcement official ~~agency~~, a copy may
 247 be used by the secondhand dealer as evidence in court. When an
 248 electronic image of a customer's identification is accepted for
 249 a transaction, the secondhand dealer must maintain the
 250 electronic image in order to meet the recordkeeping requirements
 251 applicable to the original transaction form. If a criminal
 252 investigation occurs, the secondhand dealer shall, upon request,

253 provide a clear and legible copy of the image to the appropriate
 254 law enforcement official agency.

255 Section 3. Section 538.18, Florida Statutes, is amended to
 256 read:

257 538.18 Definitions.—As used in this part, the term:

258 (1) "Appropriate law enforcement official" means the
 259 sheriff of the county in which a secondary metals recycler is
 260 located or, if the secondary metals recycler is located within a
 261 municipality, the police chief of the municipality in which the
 262 secondary metals recycler is located; however, the sheriff or
 263 police chief may designate as the appropriate law enforcement
 264 official for the county or municipality, as applicable, any law
 265 enforcement officer working within that respective county or
 266 municipality. This subsection does not limit the authority or
 267 duties of the sheriff.

268 (2)~~(9)~~ "Department" means the Department of Revenue.

269 (3)~~(1)~~ "Ferrous metals" means any metals containing
 270 significant quantities of iron or steel.

271 (4)~~(2)~~ "Fixed location" means any site occupied by a
 272 secondary metals recycler as owner of the site or as lessee of
 273 the site under a lease or other rental agreement providing for
 274 occupation of the site by the secondary metals recycler for a
 275 total duration of not less than 364 days.

276 (5)~~(3)~~ "Money" means a medium of exchange authorized or
 277 adopted by a domestic or foreign government as part of its
 278 currency.

279 (6)~~(4)~~ "Nonferrous metals" means metals not containing
 280 significant quantities of iron or steel, including, without

281 limitation, copper, brass, aluminum, bronze, lead, zinc, nickel,
282 and alloys thereof, excluding precious metals subject to
283 regulation under part I.

284 (7)~~(5)~~ "Personal identification card" means a valid
285 Florida driver license, a Florida identification card issued by
286 the Department of Highway Safety and Motor Vehicles, an
287 equivalent form of identification issued by another state, a
288 passport, or an employment authorization issued by the United
289 States Bureau of Citizenship and Immigration Services that
290 contains an individual's photograph and current address ~~any~~
291 ~~government-issued photographic identification card.~~

292 (8)~~(6)~~ "Purchase transaction" means a transaction in which
293 a secondary metals recycler gives consideration for regulated
294 metals property.

295 (9)~~(7)~~ "Regulated metals property" means any item composed
296 primarily of any nonferrous metals. The term does, but shall not
297 include aluminum beverage containers, used beverage containers,
298 or similar beverage containers; however, the term includes
299 shall include stainless steel beer kegs and items made of
300 ferrous metal obtained from any restricted regulated metals
301 property.

302 (10) "Restricted regulated metals property" means any
303 regulated metals property listed in s. 538.26(5)(b) the sale of
304 which is restricted as provided in s. 538.26(5)(a).

305 (11)~~(8)~~ "Secondary metals recycler" means any person who:

306 (a) Is engaged, from a fixed location ~~or otherwise~~, in the
307 business of purchase transactions or gathering or obtaining
308 ferrous or nonferrous metals that have served their original

309 economic purpose or is in the business of performing the
 310 manufacturing process by which ferrous metals or nonferrous
 311 metals are converted into raw material products consisting of
 312 prepared grades and having an existing or potential economic
 313 value; or

314 (b) Has facilities for performing the manufacturing
 315 process by which ferrous metals or nonferrous metals are
 316 converted into raw material products consisting of prepared
 317 grades and having an existing or potential economic value, other
 318 than by the exclusive use of hand tools, by methods including,
 319 without limitation, processing, sorting, cutting, classifying,
 320 cleaning, baling, wrapping, shredding, shearing, or changing the
 321 physical form or chemical content thereof.

322 (12) "Utility" means a public utility or electric utility
 323 as defined in s. 366.02 or a person, firm, corporation,
 324 association, or political subdivision, whether private,
 325 municipal, county, or cooperative, that is engaged in the sale,
 326 generation, provision, or delivery of gas, electricity, heat,
 327 water, oil, sewer service, or telephone, telegraph, radio,
 328 telecommunications, or communications service.

329 Section 4. Paragraph (u) of subsection (1) and paragraph
 330 (b) of subsection (3) of section 319.30, Florida Statutes, are
 331 amended to read:

332 319.30 Definitions; dismantling, destruction, change of
 333 identity of motor vehicle or mobile home; salvage.—

334 (1) As used in this section, the term:

335 (u) "Secondary metals recycler" means secondary metals
 336 recycler as defined in s. 538.18 ~~538.18(8)~~.

337 (3)

338 (b) The owner, including persons who are self-insured, of

339 any motor vehicle or mobile home which is considered to be

340 salvage shall, within 72 hours after the motor vehicle or mobile

341 home becomes salvage, forward the title to the motor vehicle or

342 mobile home to the department for processing. However, an

343 insurance company which pays money as compensation for total

344 loss of a motor vehicle or mobile home shall obtain the

345 certificate of title for the motor vehicle or mobile home and,

346 within 72 hours after receiving such certificate of title, shall

347 forward such title to the department for processing. The owner

348 or insurance company, as the case may be, may not dispose of a

349 vehicle or mobile home that is a total loss before it has

350 obtained a salvage certificate of title or certificate of

351 destruction from the department. When applying for a salvage

352 certificate of title or certificate of destruction, the owner or

353 insurance company must provide the department with an estimate

354 of the costs of repairing the physical and mechanical damage

355 suffered by the vehicle for which a salvage certificate of title

356 or certificate of destruction is sought. If a motor vehicle or

357 mobile home is damaged, wrecked, or burned to the extent that

358 the only residual value of the vehicle is as a source of parts

359 or scrap metal or comes into this state under a title or other

360 ownership document that indicates that the vehicle is

361 nonrepairable, junked, or for parts or dismantling only, then

362 the owner or insurance company which pays money as compensation

363 for total loss of a motor vehicle or mobile home shall obtain a

364 certificate of destruction ~~the estimated costs of repairing the~~

365 ~~physical and mechanical damage to the vehicle are equal to 80~~
366 ~~percent or more of the current retail cost of the vehicle, as~~
367 ~~established in any official used car or used mobile home guide,~~
368 ~~the department shall declare the vehicle unrebuildable and print~~
369 ~~a certificate of destruction,~~ which authorizes the dismantling
370 or destruction of the motor vehicle or mobile home described
371 therein. However, if the damaged motor vehicle is equipped with
372 custom-lowered floors for wheelchair access or a wheelchair
373 lift, the insurance company may, upon determining that the
374 vehicle is repairable to a condition that is safe for operation
375 on public roads, submit the certificate of title to the
376 department for reissuance as a salvage rebuildable title and the
377 addition of a title brand of "insurance-declared total loss."
378 The certificate of destruction shall be reassignable a maximum
379 of two times before dismantling or destruction of the vehicle
380 shall be required, and shall accompany the motor vehicle or
381 mobile home for which it is issued, when such motor vehicle or
382 mobile home is sold for such purposes, in lieu of a certificate
383 of title, and, thereafter, the department shall refuse issuance
384 of any certificate of title for that vehicle. Nothing in this
385 subsection shall be applicable when a vehicle is worth less than
386 \$1,500 retail in undamaged condition in any official used motor
387 vehicle guide or used mobile home guide or when a stolen motor
388 vehicle or mobile home is recovered in substantially intact
389 condition and is readily resalable without extensive repairs to
390 or replacement of the frame or engine. Any person who knowingly
391 violates this paragraph or falsifies any document to avoid the
392 requirements of this paragraph commits a misdemeanor of the

393 first degree, punishable as provided in s. 775.082 or s.
 394 775.083.

395 Section 5. Section 538.19, Florida Statutes, is amended to
 396 read:

397 538.19 Records required; limitation of liability.—

398 (1) A secondary metals recycler shall maintain a legible
 399 paper record of all purchase transactions to which such
 400 secondary metals recycler is a party. A secondary metals
 401 recycler shall also maintain a legible electronic record, in the
 402 English language, of all such purchase transactions. The
 403 appropriate law enforcement official may provide data
 404 specifications regarding the electronic record format, but such
 405 format must be approved by the Department of Law Enforcement. An
 406 electronic record of a purchase transaction shall be
 407 electronically transmitted to the appropriate law enforcement
 408 official no later than 10 a.m. of the business day following the
 409 date of the purchase transaction. The record transmitted to the
 410 appropriate law enforcement official must not contain the price
 411 paid for the items. A secondary metals recycler who transmits
 412 such records electronically is not required to also deliver the
 413 original or paper copies of the transaction forms to the
 414 appropriate law enforcement official. However, such official
 415 may, for purposes of a criminal investigation, request the
 416 secondary metals recycler to make available the original
 417 transaction form that was electronically transmitted. This
 418 original transaction form must include the price paid for the
 419 items. The secondary metals recycler shall make the form
 420 available to the appropriate law enforcement official within 24

421 hours after receipt of the request.

422 (2) The following information must be maintained on the a
 423 form approved by the Department of Law Enforcement for each
 424 purchase transaction:

425 (a) The name and address of the secondary metals recycler.

426 (b) The name, initials, or other identification of the
 427 individual entering the information on the ticket.

428 (c) The date and time of the transaction.

429 (d) The weight, quantity, or volume, and a description of
 430 the type of regulated metals property purchased in a purchase
 431 transaction.

432 (e) The amount of consideration given in a purchase
 433 transaction for the regulated metals property.

434 (f) A signed statement from the person delivering the
 435 regulated metals property stating that she or he is the rightful
 436 owner of, or is entitled to sell, the regulated metals property
 437 being sold. If the purchase involves a stainless steel beer keg,
 438 the seller must provide written documentation from the
 439 manufacturer that the seller is the owner of the stainless steel
 440 beer keg or is an employee or agent of the manufacturer.

441 (g) The distinctive number from the personal
 442 identification card of the person delivering the regulated
 443 metals property to the secondary metals recycler.

444 (h) A description of the person from whom the regulated
 445 metals property ~~goods were~~ acquired, including:

446 1. Full name, current residential address, workplace, and
 447 home and work phone numbers.

448 2. Height, weight, date of birth, race, gender, hair

449 color, eye color, and any other identifying marks.

450 3. The right thumbprint, free of smudges and smears.

451 4. Vehicle description to include the make, model, and tag
452 number of the vehicle and trailer of the person selling the
453 regulated metals property.

454 5. Any other information required by the form approved by
455 the Department of Law Enforcement.

456 (i) A photograph, videotape, or digital image of the
457 regulated metals being sold.

458 (j) A photograph, videotape, or similar likeness of the
459 person receiving consideration in which such person's facial
460 features are clearly visible.

461 (3) ~~Any secondary metals recycler that maintains an~~
462 ~~electronic database containing the information required in~~
463 ~~paragraph (2) (h), along with an oath of ownership with a~~
464 ~~signature of the seller of the secondary metals being purchased~~
465 ~~by the secondary metals recycler and a right thumbprint that has~~
466 ~~no smudges and smears on the oath of ownership for each purchase~~
467 ~~transaction, shall be exempt from the records requirement of~~
468 ~~paragraph (2) (h).~~ A secondary metals recycler complies with the
469 requirements of this section if it maintains an electronic
470 database containing the information required by subsection (2)
471 ~~paragraph (2) (h)~~ as long as the electronic information required
472 by subsection (2) ~~paragraph (2) (h)~~, along with an electronic
473 oath of ownership with an electronic signature of the seller of
474 the secondary metals being purchased by the secondary metals
475 recyclers and an electronic image of the seller's right
476 thumbprint that has no smudges and smears, can be downloaded

477 onto a paper form in the image of the form approved by the
 478 Department of Law Enforcement as provided in subsection (2).

479 (4) A secondary metals recycler shall maintain or cause to
 480 be maintained the information required by this section for not
 481 less than 3 ~~5~~ years from the date of the purchase transaction.

482 (5) ~~If a purchase transaction involves the transfer of~~
 483 ~~regulated metals property from~~ A secondary metals recycler
 484 registered with the department that purchases a motor vehicle
 485 from a licensed salvage motor vehicle dealer as defined in s.
 486 320.27 or to another secondary metals recycler registered with
 487 the department and uses a mechanical crusher to convert the
 488 vehicle to scrap metal must obtain a signed statement from the
 489 seller stating that the seller has surrendered the vehicle's
 490 certificate of title to the Department of Highway Safety and
 491 Motor Vehicles as provided in s. 319.30 or otherwise complied
 492 with the titling requirements provided by law for conversion of
 493 the vehicle to scrap metal. A, the secondary metals recycler is
 494 not liable for the seller's failure to comply with the titling
 495 requirements provided by law for conversion of a motor vehicle
 496 to scrap metal if the secondary metals recycler obtains and
 497 maintains the seller's signed statement ~~receiving the regulated~~
 498 ~~metals property shall record the name and address of the~~
 499 ~~secondary metals recycler from which it received the regulated~~
 500 ~~metals property in lieu of the requirements of paragraph (2)(h).~~

501 Section 6. Section 538.235, Florida Statutes, is amended
 502 to read:

503 538.235 Method of payment.—

504 (1) A secondary metals recycler may ~~shall~~ not enter into

505 any cash transaction:

506 (a) In excess of \$1,000 ~~in payment~~ for the purchase of
507 regulated metals property; or

508 (b) In any amount for the purchase of restricted regulated
509 metals property.

510 (2) Payment in excess of \$1,000 for the purchase of
511 regulated metals property shall be made by check issued to the
512 seller of the metal and payable to the seller.

513 (3) Payment for the purchase of restricted regulated
514 metals property shall be made by check issued to the seller of
515 the metal and payable to the seller or by electronic payment to
516 the seller's bank account or the seller's employer's bank
517 account.

518 (a) Each check shall be mailed by the secondary metals
519 recycler directly to the street address of the seller that is on
520 file with the secondary metals recycler unless otherwise
521 provided in this part. A check may not be mailed to a post
522 office box. Electronic payments shall be transmitted to an
523 account for which the seller is listed as an account holder or
524 an employee or agent of the seller.

525 (b) Each check or electronic payment shall be mailed or
526 transmitted by the secondary metals recycler to the seller
527 within 3 days after the purchase transaction unless otherwise
528 provided in this section.

529 (c) The secondary metals recycler may provide a check at
530 the time of the purchase transaction, rather than mailing the
531 check as required in paragraph (a), if the seller is:

532 1. An organization, corporation, or association registered

533 with the state as a charitable, philanthropic, religious,
 534 fraternal, civic, patriotic, social, or school-sponsored
 535 organization or association, or any nonprofit corporation or
 536 association;

537 2. A law enforcement officer acting in an official
 538 capacity;

539 3. A trustee in bankruptcy, executor, administrator, or
 540 receiver who has presented proof of such status to the secondary
 541 metals recycler;

542 4. A public official acting under judicial process or
 543 authority who has presented proof of such status to the
 544 secondary metals recycler;

545 5. A sheriff acting under the authority of a court's writ
 546 of execution, or by virtue of any process issued by a court, if
 547 proof thereof has been presented to the secondary metals
 548 recycler; or

549 6. A manufacturing, industrial, or other commercial vendor
 550 that generates regulated materials in the ordinary course of
 551 business.

552 Section 7. Subsection (1) of section 538.25, Florida
 553 Statutes, is amended to read:

554 538.25 Registration.—

555 (1) A ~~No~~ person may not ~~shall~~ engage in business as a
 556 secondary metals recycler at any location without registering
 557 with the department. The department shall accept applications
 558 only from a fixed business address. The department may not
 559 accept an application that provides an address of a hotel room
 560 or motel room, a vehicle, or a post office box.

561 (a) A fee equal to the federal and state costs for
562 processing required fingerprints must be submitted to the
563 department with each application for registration. One
564 application is required for each secondary metals recycler. If a
565 secondary metals recycler is the owner of more than one
566 secondary metals recycling location, the application must list
567 each location, and the department shall issue a duplicate
568 registration for each location. For purposes of subsections (3),
569 (4), and (5), these duplicate registrations shall be deemed
570 individual registrations. A secondary metals recycler shall pay
571 a fee of \$6 per location at the time of registration and an
572 annual renewal fee of \$6 per location on October 1 of each year.
573 All fees collected, less costs of administration, shall be
574 transferred into the Operating Trust Fund.

575 (b) The department shall forward the full set of
576 fingerprints to the Department of Law Enforcement for state and
577 federal processing, provided the federal service is available,
578 to be processed for any criminal justice information as defined
579 in s. 943.045. The cost of processing such fingerprints shall be
580 payable to the Department of Law Enforcement by the department.
581 The department may issue a temporary registration to each
582 location pending completion of the background check by state and
583 federal law enforcement agencies, but shall revoke such
584 temporary registration if the completed background check reveals
585 a prohibited criminal background. The Department of Law
586 Enforcement shall report its findings to the Department of
587 Revenue within 30 days after the date fingerprint cards are
588 submitted for criminal justice information.

589 (c) An applicant for a secondary metals recycler
590 registration must be a natural person who has reached the age of
591 18 years or a corporation organized or qualified to do business
592 in the state.

593 1. If the applicant is a natural person, the registration
594 must include a complete set of her or his fingerprints,
595 certified by an authorized law enforcement officer, and a recent
596 fullface photographic identification card of herself or himself.

597 2. If the applicant is a partnership, all the partners
598 must make application for registration.

599 3. If the applicant is a corporation, the registration
600 must include the name and address of such corporation's
601 registered agent for service of process in the state and a
602 certified copy of statement from the Secretary of State that the
603 corporation is duly organized in the state or, if the
604 corporation is organized in a state other than Florida, a
605 certified copy of the statement that the corporation is duly
606 qualified to do business in this state.

607 Section 8. Section 538.26, Florida Statutes, is amended to
608 read:

609 538.26 Certain acts and practices prohibited.—It is
610 unlawful for a secondary metals recycler to do or allow any of
611 the following acts:

612 (1) Purchase regulated metals property, restricted
613 regulated metals property, or ferrous metals before 7 a.m. or
614 after 7 p.m. between the hours of 9 p.m. and 6 a.m.

615 ~~(2) Fail to pay any sales tax owed to the department or~~
616 ~~fail to have a sales tax registration number.~~

617 ~~(3) Purchase regulated metals property at a location other~~
618 ~~than the place of business set forth on the registration.~~

619 (2)(4) Purchase regulated metals property, restricted
620 regulated metals property, or ferrous metals from any seller who
621 presents such property for sale at the registered location of
622 the secondary metals recycler when such property was not
623 transported in a motor vehicle.

624 (3)(5) Purchase regulated metals property, restricted
625 regulated metals property, or ferrous metals ~~in return for money~~
626 ~~from a trailer, a vehicle, or any location other than a fixed~~
627 ~~location or from any person who is required to prove ownership~~
628 ~~pursuant to subsection (4). However, regulated metals may be~~
629 ~~purchased from a nonfixed location, or from such person, with~~
630 ~~any negotiable or nonnegotiable instrument, including a check or~~
631 ~~draft or any other type of instrument purchased with money and~~
632 ~~sold for the purpose of making payments or transfers to others.~~

633 (4) Purchase regulated metals property from a seller who:

634 (a) Uses a name other than his or her own name or the
635 registered name of the seller's business;

636 (b) Is younger than 18 years of age; or

637 (c) Is visibly or apparently under the influence of drugs
638 or alcohol.

639 (5) (a) Purchase any restricted regulated metals property
640 listed in paragraph (b) unless the secondary metals recycler
641 obtains reasonable proof that the seller:

642 1. Owns such property. Reasonable proof of ownership may
643 include, but is not limited to, a receipt or bill of sale; or

644 2. Is an employee, agent, or contractor of the property's

645 owner who is authorized to sell the property on behalf of the
646 owner. Reasonable proof of authorization to sell the property
647 includes, but is not limited to, a signed letter on the owner's
648 letterhead, dated no later than 90 days before the sale,
649 authorizing the seller to sell the property.

650 (b) The purchase of any of the following regulated metals
651 property is subject to the restrictions provided in paragraph

652 (a):

653 1. A manhole cover.

654 2. An electric light pole or other utility structure and
655 its fixtures, wires, and hardware that are readily identifiable
656 as connected to the utility structure.

657 3. A guard rail.

658 4. A street sign, traffic sign, or traffic signal and its
659 fixtures and hardware.

660 5. Communication, transmission, distribution, and service
661 wire from a utility, including copper or aluminum bus bars,
662 connectors, grounding plates, or grounding wire.

663 6. A funeral marker or funeral vase.

664 7. A historical marker.

665 8. Railroad equipment, including, but not limited to, a
666 tie plate, signal house, control box, switch plate, E clip, or
667 rail tie junction.

668 9. Any metal item that is observably marked upon
669 reasonable inspection with any form of the name, initials, or
670 logo of a governmental entity, utility company, cemetery, or
671 railroad.

672 10. A copper, aluminum, or aluminum-copper condensing or

673 evaporator coil, including its tubing or rods, from an air-
 674 conditioning or heating unit, excluding coils from window air-
 675 conditioning or heating units and motor vehicle air-conditioning
 676 or heating units.

677 11. An aluminum or stainless steel container or bottle
 678 designed to hold propane for fueling forklifts.

679 12. A stainless steel beer keg.

680 13. A catalytic converter or any nonferrous part of a
 681 catalytic converter unless purchased as part of a motor vehicle.

682 14. Metallic wire that has been burned in whole or in part
 683 to remove insulation.

684 15. A brass or bronze commercial valve or fitting,
 685 referred to as a "fire department connection and control valve"
 686 or an "FDC valve," that is commonly used on structures for
 687 access to water for the purpose of extinguishing fires.

688 16. A brass or bronze commercial potable water backflow
 689 preventer valve that is commonly used to prevent backflow of
 690 potable water from commercial structures into municipal domestic
 691 water service systems.

692 17. A shopping cart.

693 18. A brass water meter.

694 19. A storm grate.

695 20. A brass sprinkler head used in commercial agriculture.

696 Section 9. Section 538.28, Florida Statutes, is created to
 697 read:

698 538.28 Local government regulation.-

699 (1) The regulation of purchase transactions involving
 700 regulated metals property is preempted to the state. Except as

701 provided in subsection (2), an ordinance or regulation adopted
 702 by a county or municipality relating to the purchase or sale of
 703 regulated metals property or the registration or licensure of
 704 secondary metals recyclers is void.

705 (2) This part does not preempt an ordinance or regulation
 706 originally enacted by a county or municipality before March 1,
 707 2012. Such ordinance or regulation may subsequently be amended
 708 to incorporate any provision of this part.

709 (3) This section does not apply to a county as defined in
 710 s. 125.011(1).

711 Section 10. Subsection (1) of section 538.23, Florida
 712 Statutes, is amended to read:

713 538.23 Violations and penalties.—

714 (1) (a) Except as provided in paragraph (b), a secondary
 715 metals recycler who knowingly and intentionally:

- 716 1. Violates s. 538.20 or s. 538.21;
- 717 2. Engages in a pattern of failing to keep records
 718 required by s. 538.19;
- 719 3. Violates s. 538.26(4); or
- 720 4. Violates s. 538.235,

721
 722 commits a felony of the third ~~misdemeanor of the first~~ degree,
 723 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

724 (b) A secondary metals recycler who commits a third or
 725 subsequent violation of paragraph (a) commits a felony of the
 726 first ~~third~~ degree, punishable as provided in s. 775.082, s.
 727 775.083, or s. 775.084.

728 Section 11. Section 812.145, Florida Statutes, is amended

729 to read:

730 812.145 Theft of copper or other nonferrous metals.—

731 (1) As used in this section, the term ~~terms~~:

732 (a) "Communications services" means the transmission,
 733 conveyance, or routing of voice, data, audio, video, or any
 734 other information or signals, including cable services, to a
 735 point, or between or among points, by or through any electronic,
 736 radio, satellite, cable, optical, microwave, or other medium or
 737 method now in existence or hereafter devised, regardless of the
 738 protocol used for such transmission or conveyance. The term
 739 includes such transmission, conveyance, or routing in which
 740 computer processing applications are used to act on the form,
 741 code, or protocol of the content for purposes of transmission,
 742 conveyance, or routing without regard to whether such service is
 743 referred to as voice-over-Internet-protocol services or is
 744 classified by the Federal Communications Commission as enhanced
 745 or value-added.

746 (b) "Communications services provider" includes any
 747 person, firm, corporation, or political subdivision, whether
 748 private, municipal, county, or cooperative, which is engaged in
 749 the sale, generation, provision, or delivery of communications
 750 services.

751 (c) "Copper or other nonferrous metals" means metals not
 752 containing significant quantities of iron or steel, including,
 753 without limitation, copper, copper alloy, copper utility or
 754 communications service wire, brass, aluminum, bronze, lead,
 755 zinc, nickel, and alloys thereof.

756 (d) "Electrical substation" means a facility that takes

757 electricity from the transmission grid and converts it to a
 758 lower voltage so it can be distributed to customers in the local
 759 area on the local distribution grid through one or more
 760 distribution lines less than 69 kilovolts in size.

761 (e)~~(d)~~ "Utility" means a public utility or electric
 762 utility as defined in s. 366.02, or a person, firm, corporation,
 763 association, or political subdivision, whether private,
 764 municipal, county, or cooperative, which is engaged in the sale,
 765 generation, provision, or delivery of gas, electricity, heat,
 766 water, oil, sewer service, or telephone, telegraph, radio,
 767 telecommunications, or communications service. The term includes
 768 any person, firm, corporation, association, or political
 769 subdivision, whether private, municipal, county, or cooperative,
 770 which is engaged in the sale, generation, provision, or delivery
 771 of gas or electricity services.

772 (f)~~(e)~~ "Utility service" means electricity for light,
 773 heat, or power and natural or manufactured gas for light, heat,
 774 or power, including the transportation, delivery, transmission,
 775 and distribution of electricity or natural or manufactured gas.

776 (2) A person who knowingly and intentionally takes copper
 777 or other nonferrous metals from a utility or communications
 778 services provider, thereby causing damage to the facilities of a
 779 utility or communications services provider, interrupting or
 780 interfering with utility service or communications services, or
 781 interfering with the ability of a utility or communications
 782 services provider to provide service, commits a felony of the
 783 first degree, punishable as provided in s. 775.082, s. 775.083,
 784 or s. 775.084.

785 (3) A person who is found in a civil action to have
786 illegally taken copper or other nonferrous metals from a utility
787 or communications services provider based on a conviction for a
788 violation of subsection (2) is liable to the utility or
789 communications services provider for damages in an amount equal
790 to three times the actual damages sustained by the utility or
791 communications services provider due to any personal injury,
792 wrongful death, or property damage caused by the illegal taking
793 of the nonferrous metals or an amount equal to three times any
794 claim made against the utility or communications services
795 provider for any personal injury, wrongful death, or property
796 damage caused by the malfunction of the facilities of the
797 utility or communications services provider resulting from the
798 violation of subsection (2), whichever is greater.

799 (4) A person who knowingly and intentionally removes
800 copper or other nonferrous metals from an electrical substation
801 without authorization of the utility commits a felony of the
802 first degree, punishable as provided in s. 775.082, s. 775.083,
803 or s. 775.084.

804 Section 12. (1) A public or private owner of metal
805 property is not civilly liable to a person who is injured during
806 the theft or attempted theft of metal property.

807 (2) A public or private owner of metal property is not
808 civilly liable to a person for injuries caused by a dangerous
809 condition created as a result of the theft or attempted theft of
810 the owner's metal property when the owner did not know, and
811 could not have reasonably known, of the dangerous condition.

812 (3) This section does not create or impose a duty of care

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813 upon an owner of metal property which would not otherwise exist
814 under common law.

815 Section 13. This act shall take effect July 1, 2012.