

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED  (Y/N)  
ADOPTED AS AMENDED  (Y/N)  
ADOPTED W/O OBJECTION  (Y/N)  
FAILED TO ADOPT  (Y/N)  
WITHDRAWN  (Y/N)  
OTHER

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1 Committee/Subcommittee hearing bill: Business & Consumer  
2 Affairs Subcommittee  
3 Representative Ford offered the following:  
4

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (1) of section 538.03, Florida  
8 Statutes, is amended, paragraphs (m) through (q) of subsection  
9 (2) of that section are redesignated as paragraphs (k) through  
10 (o), respectively, and present paragraphs (k), (l), and (n) of  
11 that subsection are amended, to read:

12 538.03 Definitions; applicability.—

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

14 (a)~~(e)~~ "Acquire" means to obtain by purchase, consignment,  
15 or trade.

16 (b) "Appropriate law enforcement official" means the  
17 sheriff of the county in which a secondhand dealer is located  
18 or, if the secondhand dealer is located within a municipality,  
19 both the police chief of the municipality and the sheriff;

Amendment No. 1

20 however, the sheriff or police chief may designate as the  
21 appropriate law enforcement official for that county or  
22 municipality, as applicable, any law enforcement officer working  
23 within that respective county or municipality. This paragraph  
24 does not limit the authority or duties of the sheriff.

25 (c) ~~(d)~~ "Consignment shop" means a shop engaging in the  
26 business of accepting for sale, on consignment, secondhand goods  
27 which, having once been used or transferred from the  
28 manufacturer to the dealer, are then received into the  
29 possession of a third party.

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

31 (e) ~~(h)~~ "Precious metals" means any item containing any  
32 gold, silver, or platinum, or any combination thereof, excluding  
33 any chemical or any automotive, photographic, electrical,  
34 medical, or dental materials or electronic parts.

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

40 (g) ~~(a)~~ "Secondhand dealer" means any person, corporation,  
41 or other business organization or entity which is not a  
42 secondary metals recycler subject to part II and which is  
43 engaged in the business of purchasing, consigning, or trading  
44 secondhand goods.

45 (h) ~~(f)~~ "Secondhand goods" means personal property  
46 previously owned or used, which is not regulated metals property  
47 regulated under part II and which is purchased, consigned, or

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Amendment No. 1

48 traded as used property. Such secondhand goods do not include  
49 office furniture, pianos, books, clothing, organs, coins, motor  
50 vehicles, costume jewelry, cardio and strength training or  
51 conditioning equipment designed primarily for indoor use, and  
52 secondhand sports equipment that is not permanently labeled with  
53 a serial number. For purposes of this paragraph, "secondhand  
54 sports equipment" does not include golf clubs.

55 ~~(i)-(e)~~ "Secondhand store" means the place or premises at  
56 which a secondhand dealer is registered to conduct business as a  
57 secondhand dealer or conducts business.

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

60 (2) This chapter does not apply to:

61 ~~(k) Any person purchasing, consigning, or trading~~  
62 ~~secondhand goods at a flea market regardless of whether at a~~  
63 ~~temporary or permanent business location at the flea market.~~

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

65 ~~(1)-(n)~~ A business that contracts with other persons or  
66 entities to offer its secondhand goods for sale, purchase,  
67 consignment, or trade via an Internet website, and that  
68 maintains a shop, store, or other business premises for this  
69 purpose, if all of the following apply:

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

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

74 3. The records of the sale, purchase, consignment, or  
75 trade, and the description of the secondhand goods as listed on

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Published On: 1/30/2012 8:17:58 PM

Amendment No. 1

76 the website, must contain the serial number of each item, if  
77 any;

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

80 5. The business must provide the appropriate law  
81 enforcement official ~~agency~~ with the name or names under which  
82 it conducts business on the website;

83 6. The business must allow the appropriate law enforcement  
84 official ~~agency~~ to inspect its business premises at any time  
85 during normal business hours;

86 7. Any payment by the business resulting from such a sale,  
87 purchase, consignment, or trade must be made to the person or  
88 entity with whom the business contracted to offer the goods and  
89 must be made by check or via a money services business licensed  
90 under part II of chapter 560; and

91 8.a. At least 48 hours after the estimated time of  
92 contracting to offer the secondhand goods, the business must  
93 verify that any item having a serial number is not stolen  
94 property by entering the serial number of the item into the  
95 Department of Law Enforcement's stolen article database located  
96 at the Florida Crime Information Center's public access system  
97 website. The business shall record the date and time of such  
98 verification on the contract covering the goods. If such  
99 verification reveals that an item is stolen property, the  
100 business shall immediately remove the item from any website on  
101 which it is being offered and notify the appropriate law  
102 enforcement official ~~agency~~; or

Amendment No. 1

103           b. The business must provide the appropriate law  
104 enforcement official agency with an electronic copy of the name,  
105 address, phone number, driver ~~driver's~~ license number, and  
106 issuing state of the person with whom the business contracted to  
107 offer the goods, as well as an accurate description of the  
108 goods, including make, model, serial number, and any other  
109 unique identifying marks, numbers, names, or letters that may be  
110 on an item, in a format agreed upon by the business and the  
111 appropriate law enforcement official agency. This information  
112 must be provided to the appropriate law enforcement official  
113 ~~agency~~ within 24 hours after entering into the contract unless  
114 other arrangements are made between the business and the law  
115 enforcement official agency.

116           Section 2. Subsections (1), (6), and (7) of section  
117 538.04, Florida Statutes, are amended to read:

118           538.04 Recordkeeping requirements; penalties.—

119           (1) A secondhand dealer ~~dealers~~ shall complete a  
120 secondhand dealers transaction form at the time of the actual  
121 transaction. A secondhand dealer shall maintain a copy of a  
122 completed transaction form on the registered premises for at  
123 least 1 year after the date of the transaction. However, the  
124 secondhand dealer shall maintain a copy of the transaction form  
125 for not less than 3 years. Unless other arrangements are ~~have~~  
126 ~~been~~ agreed upon by the secondhand dealer and the appropriate  
127 law enforcement official agency, the secondhand dealer shall,  
128 within 24 hours after acquiring ~~the acquisition of~~ any  
129 secondhand goods, deliver to such official ~~the police department~~  
130 ~~of the municipality where the goods were acquired or, if the~~

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Published On: 1/30/2012 8:17:58 PM

Amendment No. 1

131 ~~goods were acquired outside of a municipality, to the sheriff's~~  
132 ~~department of the county where the goods were acquired,~~ a record  
133 of the transaction on a form approved by the Department of Law  
134 Enforcement. Such record shall contain:

135 (a) The time, date, and place of the transaction.

136 (b) A complete and accurate description of the goods  
137 acquired, including the following information, if applicable:

138 1. Brand name.

139 2. Model number.

140 3. Manufacturer's serial number.

141 4. Size.

142 5. Color, as apparent to the untrained eye.

143 6. Precious metal type, weight, and content if known.

144 7. Gemstone description, including the number of stones,  
145 if applicable.

146 8. In the case of firearms, the type of action, caliber or  
147 gauge, number of barrels, barrel length, and finish.

148 9. Any other unique identifying marks, numbers, or  
149 letters.

150 (c) A description of the person from whom the goods were  
151 acquired, including:

152 1. Full name, current residential address, workplace, and  
153 home and work phone numbers.

154 2. Height, weight, date of birth, race, gender, hair  
155 color, eye color, and any other identifying marks.

156 3. The right thumbprint, free of smudges and smears, of  
157 the person from whom the goods were acquired.

Amendment No. 1

158 (d) Any other information required by the form approved by  
159 the Department of Law Enforcement.

160 (6) If the appropriate law enforcement official agency  
161 supplies a secondhand dealer with appropriate software and the  
162 secondhand dealer has computer capability, the secondhand dealer  
163 must ~~transactions shall be~~ electronically transmit secondhand  
164 dealer transactions required by this section to such official  
165 ~~transferred~~. If a secondhand dealer does not have computer  
166 capability, the appropriate law enforcement official agency may  
167 provide the secondhand dealer with a computer and all equipment  
168 necessary to ~~equipment for the purpose of~~ electronically  
169 transmit ~~transferring~~ secondhand dealer transactions. The  
170 appropriate law enforcement official agency shall retain  
171 ownership of the computer, unless otherwise agreed upon, and  
172 the secondhand dealer shall maintain the computer in good  
173 working order, except for ordinary wear and ~~tear~~ excepted. A ~~If~~  
174 ~~the~~ secondhand dealer who transmits ~~transfers~~ secondhand dealer  
175 transactions electronically, ~~the secondhand dealer~~ is not  
176 required to also deliver ~~to the appropriate law enforcement~~  
177 ~~agency~~ the original or paper copies of the secondhand  
178 transaction forms to the appropriate law enforcement official.  
179 However, such official may, for purposes ~~the purpose~~ of a  
180 criminal investigation, ~~the appropriate law enforcement agency~~  
181 ~~may~~ request ~~that~~ the secondhand dealer to deliver the ~~produce an~~  
182 original ~~of a~~ transaction form that was ~~has been~~ electronically  
183 transmitted ~~transferred~~. The secondhand dealer shall deliver the  
184 ~~this~~ form to the appropriate law enforcement official agency  
185 within 24 hours after receipt of the request.

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Published On: 1/30/2012 8:17:58 PM

Amendment No. 1

186 (7) If the original transaction form is lost or destroyed  
187 by the appropriate law enforcement official agency, a copy may  
188 be used by the secondhand dealer as evidence in court. When an  
189 electronic image of a customer's identification is accepted for  
190 a transaction, the secondhand dealer must maintain the  
191 electronic image in order to meet the recordkeeping requirements  
192 applicable to the original transaction form. If a criminal  
193 investigation occurs, the secondhand dealer shall, upon request,  
194 provide a clear and legible copy of the image to the appropriate  
195 law enforcement official agency.

196 Section 3. Section 538.18, Florida Statutes, is amended to  
197 read:

198 538.18 Definitions.—As used in this part, the term:

199 (1) "Appropriate law enforcement official" means the  
200 sheriff of the county in which a secondary metals recycler is  
201 located or, if the secondary metals recycler is located within a  
202 municipality, the police chief of the municipality in which the  
203 secondary metals recycler is located; however, the sheriff or  
204 police chief may designate as the appropriate law enforcement  
205 official for the county or municipality, as applicable, any law  
206 enforcement officer working within that respective county or  
207 municipality. This subsection does not limit the authority or  
208 duties of the sheriff.

209 (2)-(9) "Department" means the Department of Revenue.

210 (3)-(1) "Ferrous metals" means any metals containing  
211 significant quantities of iron or steel.

212 (4)-(2) "Fixed location" means any site occupied by a  
213 secondary metals recycler as owner of the site or as lessee of

398505 - h885-strike.docx

Published On: 1/30/2012 8:17:58 PM



Amendment No. 1

214 the site under a lease or other rental agreement providing for  
215 occupation of the site by the secondary metals recycler for a  
216 total duration of not less than 364 days.

217 ~~(5)(3)~~ "Money" means a medium of exchange authorized or  
218 adopted by a domestic or foreign government as part of its  
219 currency.

220 ~~(6)(4)~~ "Nonferrous metals" means metals not containing  
221 significant quantities of iron or steel, including, without  
222 limitation, copper, brass, aluminum, bronze, lead, zinc, nickel,  
223 and alloys thereof, excluding precious metals subject to  
224 regulation under part I.

225 ~~(7)(5)~~ "Personal identification card" means a valid  
226 Florida driver license, a Florida identification card issued by  
227 the Department of Highway Safety and Motor Vehicles, an  
228 equivalent form of identification issued by another state, a  
229 passport, or an employment authorization issued by the United  
230 States Bureau of Citizenship and Immigration Services that  
231 contains an individual's photograph and current address ~~any~~  
232 ~~government-issued photographic identification card.~~

233 ~~(8)(6)~~ "Purchase transaction" means a transaction in which  
234 a secondary metals recycler gives consideration for regulated  
235 metals property.

236 ~~(9)(7)~~ "Regulated metals property" means any item composed  
237 primarily of any nonferrous metals. The term does, ~~but shall not~~  
238 include aluminum beverage containers, used beverage containers,  
239 or similar beverage containers; however, ~~the term includes~~  
240 ~~shall include~~ stainless steel beer kegs and items made of

Amendment No. 1

241 ferrous metal obtained from any restricted regulated metals  
242 property.

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

246 (11)-(8) "Secondary metals recycler" means any person who:

247 (a) Is engaged, from a fixed location ~~or otherwise~~, in the  
248 business of purchase transactions, gathering or obtaining  
249 ferrous or nonferrous metals that have served their original  
250 economic purpose or is in the business of performing the  
251 manufacturing process by which ferrous metals or nonferrous  
252 metals are converted into raw material products consisting of  
253 prepared grades and having an existing or potential economic  
254 value; or

255 (b) Has facilities for performing the manufacturing  
256 process by which ferrous metals or nonferrous metals are  
257 converted into raw material products consisting of prepared  
258 grades and having an existing or potential economic value, other  
259 than by the exclusive use of hand tools, by methods including,  
260 without limitation, processing, sorting, cutting, classifying,  
261 cleaning, baling, wrapping, shredding, shearing, or changing the  
262 physical form or chemical content thereof.

263 (12) "Utility" means a person, firm, corporation,  
264 association, or political subdivision, whether private,  
265 municipal, county, or cooperative, that is engaged in the sale,  
266 generation, provision, or delivery of gas, electricity, heat,  
267 water, oil, sewer service, or telephone, telegraph, radio, or  
268 telecommunications service.

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Published On: 1/30/2012 8:17:58 PM

Amendment No. 1

269 Section 4. Paragraph (u) of subsection (1) of section  
270 319.30, Florida Statutes, is amended to read:

271 319.30 Definitions; dismantling, destruction, change of  
272 identity of motor vehicle or mobile home; salvage.—

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

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

276 Section 5. Section 538.19, Florida Statutes, is amended to  
277 read:

278 538.19 Records required; limitation of liability.—

279 (1) A secondary metals recycler shall maintain a legible  
280 paper record of all purchase transactions to which such  
281 secondary metals recycler is a party. A secondary metals  
282 recycler shall also maintain a legible electronic record, in the  
283 English language, of all such purchase transactions. The  
284 appropriate law enforcement official may provide data  
285 specifications regarding the electronic record format, but such  
286 format must be approved by the Department of Law Enforcement. An  
287 electronic record of a purchase transaction shall be  
288 electronically transmitted to the appropriate law enforcement  
289 official no later than 10 a.m. of the business day following the  
290 date of the purchase transaction. A secondary metals recycler  
291 who transmits such records electronically is not required to  
292 also deliver the original or paper copies of the transaction  
293 forms to the appropriate law enforcement official. However, such  
294 official may, for purposes of a criminal investigation, request  
295 the secondary metals recycler to deliver the original  
296 transaction form that was electronically transmitted. The

Amendment No. 1

297 secondary metals recycler shall make available the form to the  
298 appropriate law enforcement official within 24 hours after  
299 receipt of the request.

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

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

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

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

307 (d) The weight, quantity, or volume, and a description of  
308 the type of regulated metals property purchased in a purchase  
309 transaction.

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

312 (f) A signed statement from the person delivering the  
313 regulated metals property stating that she or he is the rightful  
314 owner of, or is entitled to sell, the regulated metals property  
315 being sold. If the purchase involves a stainless steel beer keg,  
316 the seller must provide written documentation from the  
317 manufacturer that the seller is the owner of the stainless steel  
318 beer keg or is an employee or agent of the manufacturer.

319 (g) The distinctive number from the personal  
320 identification card of the person delivering the regulated  
321 metals property to the secondary metals recycler.

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

## Amendment No. 1

324 1. Full name, current residential address, workplace, and  
325 home and work phone numbers.

326 2. Height, weight, date of birth, race, gender, hair  
327 color, eye color, and any other identifying marks.

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

329 4. Vehicle description to include the make, model, and tag  
330 number of the vehicle and trailer of the person selling the  
331 regulated metals property.

332 5. Any other information required by the form approved by  
333 the Department of Law Enforcement.

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

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

339 ~~(3) Any secondary metals recycler that maintains an~~  
340 ~~electronic database containing the information required in~~  
341 ~~paragraph (2) (h), along with an oath of ownership with a~~  
342 ~~signature of the seller of the secondary metals being purchased~~  
343 ~~by the secondary metals recycler and a right thumbprint that has~~  
344 ~~no smudges and smears on the oath of ownership for each purchase~~  
345 ~~transaction, shall be exempt from the records requirement of~~  
346 ~~paragraph (2) (h).~~ A secondary metals recycler complies with the  
347 requirements of this section if it maintains an electronic  
348 database containing the information required by subsection (2)  
349 ~~paragraph (2) (h)~~ as long as the electronic information required  
350 by subsection (2) ~~paragraph (2) (h)~~, along with an electronic  
351 oath of ownership with an electronic signature of the seller of

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Published On: 1/30/2012 8:17:58 PM

Amendment No. 1

352 the secondary metals being purchased by the secondary metals  
353 recyclers and an electronic image of the seller's right  
354 thumbprint that has no smudges and smears, can be downloaded  
355 onto a paper form in the image of the form approved by the  
356 Department of Law Enforcement as provided in subsection (2).

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

360 (5) ~~If a purchase transaction involves the transfer of~~  
361 ~~regulated metals property from~~ A secondary metals recycler  
362 registered with the department that purchases a motor vehicle  
363 from a licensed salvage motor vehicle dealer as defined in s.  
364 320.27 or to another secondary metals recycler registered with  
365 the department and uses a mechanical crusher to convert the  
366 vehicle to scrap metal must obtain a signed statement from the  
367 seller stating that the seller has surrendered the vehicle's  
368 certificate of title to the Department of Highway Safety and  
369 Motor Vehicles as provided in s. 319.30 or otherwise complied  
370 with the titling requirements provided by law for conversion of  
371 the vehicle to scrap metal. A, the secondary metals recycler is  
372 not liable for the seller's failure to comply with the titling  
373 requirements provided by law for conversion of a motor vehicle  
374 to scrap metal if the secondary metals recycler obtains and  
375 maintains the seller's signed statement ~~receiving the regulated~~  
376 ~~metals property shall record the name and address of the~~  
377 ~~secondary metals recycler from which it received the regulated~~  
378 ~~metals property in lieu of the requirements of paragraph (2) (h).~~

Amendment No. 1

379 Section 6. Section 538.235, Florida Statutes, is amended  
380 to read:

381 538.235 Method of payment.—

382 (1) A secondary metals recycler may shall not enter into  
383 any cash transaction:

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

386 (b) In any amount for the purchase of restricted regulated  
387 metals property.

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

391 (3) Payment for the purchase of restricted regulated  
392 metals property shall be made by check issued to the seller of  
393 the metal and payable to the seller or by electronic payment to  
394 the seller's bank account or the seller's employer's bank  
395 account.

396 (a) Each check shall be mailed by the secondary metals  
397 recycler directly to the street address of the seller that is on  
398 file with the secondary metals recycler unless otherwise  
399 provided in this part. A check may not be mailed to a post  
400 office box. Electronic payments shall be transmitted to an  
401 account for which the seller is listed as an account holder or  
402 an employee or agent of the seller.

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

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Published On: 1/30/2012 8:17:58 PM

Amendment No. 1

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

410 1. An organization, corporation, or association registered  
411 with the state as a charitable, philanthropic, religious,  
412 fraternal, civic, patriotic, social, or school-sponsored  
413 organization or association, or any nonprofit corporation or  
414 association;

415 2. A law enforcement officer acting in an official  
416 capacity;

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

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

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

427 6. A manufacturing, industrial, or other commercial vendor  
428 that generates regulated materials in the ordinary course of  
429 business.

430 Section 7. Subsection (1) of section 538.25, F.S., is  
431 amended to read:

432 538.25 Registration.—

433 (1) A ~~No~~ person may not ~~shall~~ engage in business as a  
434 secondary metals recycler at any location without registering

398505 - h885-strike.docx

Published On: 1/30/2012 8:17:58 PM



Amendment No. 1

435 with the department. The department shall accept applications  
436 only from a fixed business address. The department may not  
437 accept an application that provides an address of a hotel or  
438 motel room, a vehicle, or a post office box.

439 Section 8. Section 538.26, Florida Statutes, is amended to  
440 read:

441 538.26 Certain acts and practices prohibited.—It is  
442 unlawful for a secondary metals recycler to do or allow any of  
443 the following acts:

444 (1) Purchase regulated metals property, restricted  
445 regulated metals property, or ferrous metals on weekdays before  
446 7 a.m. or after 6 p.m., on Saturdays before 7 a.m. or after 3  
447 p.m., and on Sundays. ~~between the hours of 9 p.m. and 6 a.m.~~

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

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

452 (2)-(4) Purchase regulated metals property, restricted  
453 regulated metals property, or ferrous metals from any seller who  
454 presents such property for sale at the registered location of  
455 the secondary metals recycler when such property was not  
456 transported in a motor vehicle.

457 (3)-(5) Purchase regulated metals property, restricted  
458 regulated metals property, or ferrous metals ~~in return for money~~  
459 ~~from a trailer, a vehicle, or any location other than a fixed~~  
460 ~~location or from any person who is required to prove ownership~~  
461 ~~pursuant to subsection (4). However, regulated metals may be~~  
462 ~~purchased from a nonfixed location, or from such person, with~~

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Published On: 1/30/2012 8:17:58 PM

Amendment No. 1

463 ~~any negotiable or nonnegotiable instrument, including a check or~~  
464 ~~draft or any other type of instrument purchased with money and~~  
465 ~~sold for the purpose of making payments or transfers to others.~~

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

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

469 (b) Is younger than 18 years of age; or  
470 Is under the influence of drugs or alcohol, if such  
471 condition is visible or apparent.

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

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

477 2. Is an employee, agent, or contractor of the property's  
478 owner who is authorized to sell the property on behalf of the  
479 owner. Reasonable proof of authorization to sell the property  
480 includes, but is not limited to, a signed letter on the owner's  
481 letterhead, dated no later than 90 days before the sale,  
482 authorizing the seller to sell the property.

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

485 (a):

486 1. A manhole cover.

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

490 3. A guard rail.

398505 - h885-strike.docx

Published On: 1/30/2012 8:17:58 PM

## Amendment No. 1

- 491        4. A street sign, traffic sign, or traffic signal and its  
492 fixtures and hardware.
- 493        5. Communication, transmission, distribution, and service  
494 wire from a utility, including copper or aluminum bus bars,  
495 connectors, grounding plates, or grounding wire.
- 496        6. A funeral marker or funeral vase.
- 497        7. A historical marker.
- 498        8. Railroad equipment, including, but not limited to, a  
499 tie plate, signal house, control box, switch plate, E clip, or  
500 rail tie junction.
- 501        9. Any metal item that is observably marked upon  
502 reasonable inspection with any form of the name, initials, or  
503 logo of a governmental entity, utility company, cemetery, or  
504 railroad.
- 505        10. A copper, aluminum, or aluminum-copper condensing or  
506 evaporator coil, including its tubing or rods, from an air-  
507 conditioning or heating unit, excluding coils from window air-  
508 conditioning or heating units and motor vehicle air-conditioning  
509 or heating units.
- 510        11. An aluminum or stainless steel container or bottle  
511 designed to hold propane for fueling forklifts.
- 512        12. A stainless steel beer keg.
- 513        13. A catalytic converter or any nonferrous part of a  
514 catalytic converter unless purchased as part of a motor vehicle.
- 515        14. Metallic wire that has been burned in whole or in part  
516 to remove insulation.
- 517        15. A brass or bronze commercial valve or fitting,  
518 referred to as a "fire department connection and control valve"

Amendment No. 1

519 or an "FDC valve," that is commonly used on structures for  
520 access to water for the purpose of extinguishing fires.

521 16. A brass or bronze commercial potable water backflow  
522 preventer valve that is commonly used to prevent backflow of  
523 potable water from commercial structures into municipal domestic  
524 water service systems.

525 17. A shopping cart.

526 18. A brass water meter.

527 19. A storm grate.

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

529 Section 9. Section 538.28, Florida Statutes, is created to  
530 read:

531 538.28 Local government regulation; preemption.-

532 (1) The regulation of purchase transactions involving  
533 regulated metals property is preempted to the state. Except as  
534 provided in subsection (2), an ordinance or regulation adopted  
535 by a county or municipality relating to the purchase or sale of  
536 regulated metals property or the registration or licensure of  
537 secondary metals recyclers is void.

538 (2) This part does not preempt an ordinance or regulation  
539 originally enacted by a county or municipality before March 1,  
540 2012.

541 Section 10. For the purpose of incorporating the  
542 amendments made by this act to sections 538.19, 538.235, and  
543 538.26, Florida Statutes, in references thereto, paragraph (a)  
544 of subsection (1) of section 538.23, Florida Statutes, is  
545 reenacted and amended to read:

546 538.23 Violations and penalties.-

398505 - h885-strike.docx

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## Amendment No. 1

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

- 549 1. Violates s. 538.20 or s. 538.21;  
550 2. Engages in a pattern of failing to keep records  
551 required by s. 538.19;  
552 3. Violates s. 538.26(2) ~~538.26(4)~~; or  
553 4. Violates s. 538.235,

554  
555 commits a misdemeanor of the first degree, punishable as  
556 provided in s. 775.082.

557 Section 11. Paragraph (d) of subsection (1) and subsection  
558 (2) of section 812.145, Florida Statutes, are amended, and  
559 subsection (3) is added to that section, to read:

560 812.145 Theft of copper or other nonferrous metals.—

561 (1) As used in this section, the terms:

562 (d) "Utility" means a public utility or electric utility  
563 as defined in s. 366.02, or a ~~includes any person, firm,~~  
564 cooperative, corporation, association, or political subdivision,  
565 whether private, municipal, county, or cooperative, which is  
566 engaged in the sale, generation, provision, or delivery of heat,  
567 water, oil, sewer service, telephone or telegraph service,  
568 radio, telecommunications, communications, gas, or electricity  
569 services.

570 (2) A person who knowingly and intentionally takes or  
571 assists with the taking of copper or other nonferrous metals  
572 from a utility or communications services provider, thereby  
573 causing damage to the facilities of a utility or communications  
574 services provider, interrupting or interfering with utility

Amendment No. 1

575 service or communications services, or interfering with the  
576 ability of a utility or communications services provider to  
577 provide service, commits a felony of the first degree,  
578 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

579 (3) A person who is found in a civil action to have  
580 illegally taken copper or other nonferrous metals from a utility  
581 or communications services provider based on a conviction for a  
582 violation of subsection (2) is liable to the utility or  
583 communications services provider for damages in an amount equal  
584 to three times the actual damages sustained by the utility or  
585 communications services provider due to any personal injury,  
586 wrongful death, or property damage caused by the illegal taking  
587 of the nonferrous metals or an amount equal to three times any  
588 claim made against the utility or communications services  
589 provider for any personal injury, wrongful death, or property  
590 damage caused by the malfunction of the facilities of the  
591 utility or communications services provider resulting from the  
592 violation of subsection (2), whichever is greater.

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

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

Amendment No. 1

601       (3) This section does not create or impose a duty of care  
602 upon an owner of metal property which would not otherwise exist  
603 under common law.

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

605  
606  
607

608           -----

609                           **T I T L E   A M E N D M E N T**

610           Remove the entire title and insert:

611   A bill to be entitled

612   An act relating to transactions by secondhand dealers and  
613   secondary metals recyclers; amending s. 538.03, F.S.; defining  
614   the term "appropriate law enforcement official"; deleting  
615   exemptions from regulation as a secondhand dealer which relate  
616   to flea market transactions and auction businesses; conforming  
617   terminology; amending s. 538.04, F.S., relating to recordkeeping  
618   requirements; conforming terminology and clarifying provisions;  
619   amending s. 538.18, F.S.; revising and providing definitions;  
620   amending s. 319.30, F.S.; conforming a cross-reference; amending  
621   s. 538.19, F.S.; revising requirements for the types of  
622   information that secondary metals recyclers must obtain and  
623   maintain regarding purchase transactions, including requirements  
624   for the maintenance and transmission of electronic records of  
625   such transactions; revising the period required for secondary  
626   metals recyclers to maintain certain information regarding  
627   purchase transactions involving regulated metals property;  
628   limiting the liability of secondary metals recyclers for the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 885 (2012)

Amendment No. 1

629 conversion of motor vehicles to scrap metal under certain  
630 circumstances; amending s. 538.235, F.S.; revising requirements  
631 for payments made by secondary metals recyclers to sellers of  
632 regulated metals property, to prohibit certain cash  
633 transactions; providing penalties; providing methods of payment  
634 for restricted regulated metals property; requiring that  
635 purchases of certain property be made by check or by electronic  
636 payment; providing procedures; amending s. 538.25, F.S.;  
637 requiring an application for registration contain the address of  
638 a fixed business location; amending s. 538.26, F.S.; prohibiting  
639 secondary metals recyclers from purchasing regulated metals  
640 property, restricted regulated metals property, or ferrous  
641 metals during specified times, from certain locations, or from  
642 certain sellers; prohibiting the purchase of specified  
643 restricted regulated metals property without obtaining certain  
644 proof of the seller's ownership and authorization to sell the  
645 property; providing penalties; creating s. 538.28, F.S.;  
646 preempting to the state the regulation of secondary metals  
647 recyclers and purchase transactions involving regulated metals  
648 property; exempting county and municipal ordinances and  
649 regulations enacted before March 1, 2012, from preemption;  
650 reenacting and amending s. 538.23(1)(a), F.S., relating to  
651 violations and penalties, to incorporate the amendments made by  
652 this act to ss. 538.19, 538.235, and 538.26, F.S., in references  
653 thereto; correcting a cross-reference; amending s. 812.145,  
654 F.S.; redefining the term "utility"; providing that a person who  
655 assists in the taking of certain metals commits a felony of the  
656 first degree; providing that a person who illegally takes copper

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 885 (2012)

Amendment No. 1

657 or other nonferrous metals from a utility or communications  
658 services provider is liable to the utility or communications  
659 provider for damages equal to three times the amount of any  
660 claim against the utility or communication services provider  
661 resulting from the illegal taking of copper or other nonferrous  
662 metals; limiting the liability of a public or private owner of  
663 metal property for injuries occurring during the theft or  
664 attempted theft of metal property and for injuries occurring as  
665 the result of the theft or attempted theft; providing that no  
666 additional duty of care is imposed on the owner of metal  
667 property; providing an effective date.