

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; amending
13 s. 538.19, F.S.; revising requirements for the types
14 of information that secondary metals recyclers must
15 obtain and maintain regarding purchase transactions,
16 including requirements for the maintenance and
17 transmission of electronic records of such
18 transactions; revising the period required for
19 secondary metals recyclers to maintain certain
20 information regarding purchase transactions involving
21 regulated metals property; limiting the liability of
22 secondary metals recyclers for the conversion of motor
23 vehicles to scrap metal under certain circumstances;
24 amending s. 538.235, F.S.; revising requirements for
25 payments made by secondary metals recyclers to sellers
26 of regulated metals property, to prohibit certain cash
27 transactions; providing penalties; providing methods
28 of payment for restricted regulated metals property;

HB 885

2012

29 requiring that purchases of certain property be made
30 by check or by electronic payment; providing
31 procedures; amending s. 538.26, F.S.; prohibiting
32 secondary metals recyclers from purchasing regulated
33 metals property, restricted regulated metals property,
34 or ferrous metals during specified times or from
35 certain locations; prohibiting the purchase of
36 specified restricted regulated metals property without
37 obtaining certain proof of the seller's ownership and
38 authorization to sell the property; providing
39 penalties; creating s. 538.28, F.S.; preempting to the
40 state the regulation of secondary metals recyclers and
41 purchase transactions involving regulated metals
42 property; exempting county and municipal ordinances
43 and regulations enacted before March 1, 2012, from
44 preemption; reenacting and amending s. 538.23(1)(a),
45 F.S., relating to violations and penalties, to
46 incorporate the amendments made by this act to ss.
47 538.19, 538.235, and 538.26, F.S., in references
48 thereto; correcting a cross-reference; providing an
49 effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Subsection (1) of section 538.03, Florida
54 Statutes, is amended, paragraphs (m) through (q) of subsection
55 (2) of that section are redesignated as paragraphs (k) through
56 (o), respectively, and present paragraphs (k), (l), and (n) of

57 | that subsection are amended, to read:

58 | 538.03 Definitions; applicability.—

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

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

62 | (b) "Appropriate law enforcement official" means the
63 | sheriff of the county in which a secondhand dealer is located
64 | or, if the secondhand dealer is located within a municipality,
65 | both the police chief of the municipality and the sheriff;
66 | however, the sheriff or police chief may designate as the
67 | appropriate law enforcement official for that county or
68 | municipality, as applicable, any law enforcement officer working
69 | within that respective county or municipality. This paragraph
70 | does not limit the authority or duties of the sheriff.

71 | (c)~~(d)~~ "Consignment shop" means a shop engaging in the
72 | business of accepting for sale, on consignment, secondhand goods
73 | which, having once been used or transferred from the
74 | manufacturer to the dealer, are then received into the
75 | possession of a third party.

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

77 | (e)~~(h)~~ "Precious metals" means any item containing any
78 | gold, silver, or platinum, or any combination thereof, excluding
79 | any chemical or any automotive, photographic, electrical,
80 | medical, or dental materials or electronic parts.

81 | (f)~~(b)~~ "Precious metals dealer" means a secondhand dealer
82 | who normally or regularly engages in the business of buying used
83 | precious metals for resale. The term does not include those
84 | persons involved in the bulk sale of precious metals from one

85 secondhand or precious metals dealer to another.

86 (g)~~(a)~~ "Secondhand dealer" means any person, corporation,
 87 or other business organization or entity which is not a
 88 secondary metals recycler subject to part II and which is
 89 engaged in the business of purchasing, consigning, or trading
 90 secondhand goods.

91 (h)~~(f)~~ "Secondhand goods" means personal property
 92 previously owned or used, which is not regulated metals property
 93 regulated under part II and which is purchased, consigned, or
 94 traded as used property. Such secondhand goods do not include
 95 office furniture, pianos, books, clothing, organs, coins, motor
 96 vehicles, costume jewelry, cardio and strength training or
 97 conditioning equipment designed primarily for indoor use, and
 98 secondhand sports equipment that is not permanently labeled with
 99 a serial number. For purposes of this paragraph, "secondhand
 100 sports equipment" does not include golf clubs.

101 (i)~~(e)~~ "Secondhand store" means the place or premises at
 102 which a secondhand dealer is registered to conduct business as a
 103 secondhand dealer or conducts business.

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

106 (2) This chapter does not apply to:

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

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

111 (l)~~(n)~~ A business that contracts with other persons or
 112 entities to offer its secondhand goods for sale, purchase,

113 | consignment, or trade via an Internet website, and that
114 | maintains a shop, store, or other business premises for this
115 | purpose, if all of the following apply:

116 | 1. The secondhand goods must be available on the website
117 | for viewing by the public at no charge;

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

120 | 3. The records of the sale, purchase, consignment, or
121 | trade, and the description of the secondhand goods as listed on
122 | the website, must contain the serial number of each item, if
123 | any;

124 | 4. The secondhand goods listed on the website must be
125 | searchable based upon the state or zip code;

126 | 5. The business must provide the appropriate law
127 | enforcement official ~~agency~~ with the name or names under which
128 | it conducts business on the website;

129 | 6. The business must allow the appropriate law enforcement
130 | official ~~agency~~ to inspect its business premises at any time
131 | during normal business hours;

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

137 | 8.a. At least 48 hours after the estimated time of
138 | contracting to offer the secondhand goods, the business must
139 | verify that any item having a serial number is not stolen
140 | property by entering the serial number of the item into the

141 Department of Law Enforcement's stolen article database located
 142 at the Florida Crime Information Center's public access system
 143 website. The business shall record the date and time of such
 144 verification on the contract covering the goods. If such
 145 verification reveals that an item is stolen property, the
 146 business shall immediately remove the item from any website on
 147 which it is being offered and notify the appropriate law
 148 enforcement official ~~agency~~; or

149 b. The business must provide the appropriate law
 150 enforcement official ~~agency~~ with an electronic copy of the name,
 151 address, phone number, driver ~~driver's~~ license number, and
 152 issuing state of the person with whom the business contracted to
 153 offer the goods, as well as an accurate description of the
 154 goods, including make, model, serial number, and any other
 155 unique identifying marks, numbers, names, or letters that may be
 156 on an item, in a format agreed upon by the business and the
 157 appropriate law enforcement official ~~agency~~. This information
 158 must be provided to the appropriate law enforcement official
 159 ~~agency~~ within 24 hours after entering into the contract unless
 160 other arrangements are made between the business and the law
 161 enforcement official ~~agency~~.

162 Section 2. Subsections (1), (6), and (7) of section
 163 538.04, Florida Statutes, are amended to read:

164 538.04 Recordkeeping requirements; penalties.—

165 (1) A secondhand dealer ~~dealers~~ shall complete a
 166 secondhand dealers transaction form at the time of the actual
 167 transaction. A secondhand dealer shall maintain a copy of a
 168 completed transaction form on the registered premises for at

169 | least 1 year after the date of the transaction. However, the
 170 | secondhand dealer shall maintain a copy of the transaction form
 171 | for not less than 3 years. Unless other arrangements are ~~have~~
 172 | ~~been~~ agreed upon by the secondhand dealer and the appropriate
 173 | law enforcement official ~~agency~~, the secondhand dealer shall,
 174 | within 24 hours after acquiring ~~the acquisition of~~ any
 175 | secondhand goods, deliver to such official ~~the police department~~
 176 | ~~of the municipality where the goods were acquired or, if the~~
 177 | ~~goods were acquired outside of a municipality, to the sheriff's~~
 178 | ~~department of the county where the goods were acquired,~~ a record
 179 | of the transaction on a form approved by the Department of Law
 180 | Enforcement. Such record shall contain:

- 181 | (a) The time, date, and place of the transaction.
- 182 | (b) A complete and accurate description of the goods
 183 | acquired, including the following information, if applicable:
- 184 | 1. Brand name.
- 185 | 2. Model number.
- 186 | 3. Manufacturer's serial number.
- 187 | 4. Size.
- 188 | 5. Color, as apparent to the untrained eye.
- 189 | 6. Precious metal type, weight, and content if known.
- 190 | 7. Gemstone description, including the number of stones,
 191 | if applicable.
- 192 | 8. In the case of firearms, the type of action, caliber or
 193 | gauge, number of barrels, barrel length, and finish.
- 194 | 9. Any other unique identifying marks, numbers, or
 195 | letters.

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

198 1. Full name, current residential address, workplace, and
 199 home and work phone numbers.

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

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

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

206 (6) If the appropriate law enforcement official agency
 207 supplies a secondhand dealer with appropriate software and the
 208 secondhand dealer has computer capability, the secondhand dealer
 209 must ~~transactions shall be~~ electronically transmit secondhand
 210 dealer transactions required by this section to such official
 211 ~~transferred~~. If a secondhand dealer does not have computer
 212 capability, the appropriate law enforcement official agency may
 213 provide the secondhand dealer with a computer and all equipment
 214 necessary to ~~equipment for the purpose of~~ electronically
 215 transmit ~~transferring~~ secondhand dealer transactions. The
 216 appropriate law enforcement official agency shall retain
 217 ownership of the computer, unless otherwise agreed upon, and
 218 the secondhand dealer shall maintain the computer in good
 219 working order, except for ordinary wear ~~and tear~~ excepted. A ~~If~~
 220 ~~the~~ secondhand dealer who transmits ~~transfers~~ secondhand dealer
 221 transactions electronically, ~~the secondhand dealer~~ is not
 222 required to also deliver ~~to the appropriate law enforcement~~
 223 ~~agency~~ the original or paper copies of the secondhand

224 transaction forms to the appropriate law enforcement official.
 225 However, such official may, for purposes ~~the purpose~~ of a
 226 criminal investigation, ~~the appropriate law enforcement agency~~
 227 ~~may request that~~ the secondhand dealer to deliver the ~~produce an~~
 228 original ~~of a~~ transaction form that was ~~has been~~ electronically
 229 transmitted ~~transferred~~. The secondhand dealer shall deliver the
 230 ~~this~~ form to the appropriate law enforcement official ~~agency~~
 231 within 24 hours after receipt of the request.

232 (7) If the original transaction form is lost or destroyed
 233 by the appropriate law enforcement official ~~agency~~, a copy may
 234 be used by the secondhand dealer as evidence in court. When an
 235 electronic image of a customer's identification is accepted for
 236 a transaction, the secondhand dealer must maintain the
 237 electronic image in order to meet the recordkeeping requirements
 238 applicable to the original transaction form. If a criminal
 239 investigation occurs, the secondhand dealer shall, upon request,
 240 provide a clear and legible copy of the image to the appropriate
 241 law enforcement official ~~agency~~.

242 Section 3. Section 538.18, Florida Statutes, is amended to
 243 read:

244 538.18 Definitions.—As used in this part, the term:

245 (1) "Appropriate law enforcement official" means the
 246 sheriff of the county in which a secondary metals recycler is
 247 located or, if the secondary metals recycler is located within a
 248 municipality, the police chief of the municipality in which the
 249 secondary metals recycler is located; however, the sheriff or
 250 police chief may designate as the appropriate law enforcement
 251 official for the county or municipality, as applicable, any law

252 enforcement officer working within that respective county or
 253 municipality. This subsection does not limit the authority or
 254 duties of the sheriff.

255 (2)~~(9)~~ "Department" means the Department of Revenue.

256 (3)~~(1)~~ "Ferrous metals" means any metals containing
 257 significant quantities of iron or steel.

258 (4)~~(2)~~ "Fixed location" means any site occupied by a
 259 secondary metals recycler as owner of the site or as lessee of
 260 the site under a lease or other rental agreement providing for
 261 occupation of the site by the secondary metals recycler for a
 262 total duration of not less than 364 days.

263 (5)~~(3)~~ "Money" means a medium of exchange authorized or
 264 adopted by a domestic or foreign government as part of its
 265 currency.

266 (6)~~(4)~~ "Nonferrous metals" means metals not containing
 267 significant quantities of iron or steel, including, without
 268 limitation, copper, brass, aluminum, bronze, lead, zinc, nickel,
 269 and alloys thereof, excluding precious metals subject to
 270 regulation under part I.

271 (7)~~(5)~~ "Personal identification card" means a valid
 272 Florida driver license, a Florida identification card issued by
 273 the Department of Highway Safety and Motor Vehicles, an
 274 equivalent form of identification issued by another state, a
 275 passport, or an employment authorization issued by the United
 276 States Bureau of Citizenship and Immigration Services that
 277 contains an individual's photograph and current address ~~any~~
 278 ~~government-issued photographic identification card.~~

279 (8)~~(6)~~ "Purchase transaction" means a transaction in which

HB 885

2012

280 a secondary metals recycler gives consideration for regulated
 281 metals property.

282 ~~(9)-(7)~~ "Regulated metals property" means any item composed
 283 primarily of any nonferrous metals. The term does, but shall not
 284 include aluminum beverage containers, used beverage containers,
 285 or similar beverage containers; however, the term includes
 286 ~~shall include~~ stainless steel beer kegs and items made of
 287 ferrous metal obtained from any restricted regulated metals
 288 property.

289 (10) "Restricted regulated metals property" means any
 290 regulated metals property listed in s. 538.26(4) (b) the sale of
 291 which is restricted as provided in s. 538.26(4) (a).

292 ~~(11)-(8)~~ "Secondary metals recycler" means any person who:
 293 (a) Is engaged, from a fixed location ~~or otherwise~~, in the
 294 business of gathering or obtaining ferrous or nonferrous metals
 295 that have served their original economic purpose or is in the
 296 business of performing the manufacturing process by which
 297 ferrous metals or nonferrous metals are converted into raw
 298 material products consisting of prepared grades and having an
 299 existing or potential economic value; or

300 (b) Has facilities for performing the manufacturing
 301 process by which ferrous metals or nonferrous metals are
 302 converted into raw material products consisting of prepared
 303 grades and having an existing or potential economic value, other
 304 than by the exclusive use of hand tools, by methods including,
 305 without limitation, processing, sorting, cutting, classifying,
 306 cleaning, baling, wrapping, shredding, shearing, or changing the
 307 physical form or chemical content thereof.

308 (12) "Utility" means a person, firm, corporation,
 309 association, or political subdivision, whether private,
 310 municipal, county, or cooperative, that is engaged in the sale,
 311 generation, provision, or delivery of gas, electricity, heat,
 312 water, oil, sewer service, or telephone, telegraph, radio, or
 313 telecommunications service.

314 Section 4. Paragraph (u) of subsection (1) of section
 315 319.30, Florida Statutes, is amended to read:

316 319.30 Definitions; dismantling, destruction, change of
 317 identity of motor vehicle or mobile home; salvage.—

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

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

321 Section 5. Section 538.19, Florida Statutes, is amended to
 322 read:

323 538.19 Records required; limitation of liability.—

324 (1) A secondary metals recycler shall maintain a legible
 325 paper record of all purchase transactions to which such
 326 secondary metals recycler is a party. A secondary metals
 327 recycler shall also maintain a legible electronic record, in the
 328 English language, of all such purchase transactions. The
 329 appropriate law enforcement official may provide data
 330 specifications regarding the electronic record format, but such
 331 format must be approved by the Department of Law Enforcement. An
 332 electronic record of a purchase transaction shall be
 333 electronically transmitted to the appropriate law enforcement
 334 official no later than 10 a.m. of the business day following the
 335 date of the purchase transaction. A secondary metals recycler

336 who transmits such records electronically is not required to
 337 also deliver the original or paper copies of the transaction
 338 forms to the appropriate law enforcement official. However, such
 339 official may, for purposes of a criminal investigation, request
 340 the secondary metals recycler to deliver the original
 341 transaction form that was electronically transmitted. The
 342 secondary metals recycler shall deliver the form to the
 343 appropriate law enforcement official within 24 hours after
 344 receipt of the request.

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

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

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

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

352 (d) The weight, quantity, or volume, and a description of
 353 the type of regulated metals property purchased in a purchase
 354 transaction.

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

357 (f) A signed statement from the person delivering the
 358 regulated metals property stating that she or he is the rightful
 359 owner of, or is entitled to sell, the regulated metals property
 360 being sold. If the purchase involves a stainless steel beer keg,
 361 the seller must provide written documentation from the
 362 manufacturer that the seller is the owner of the stainless steel
 363 beer keg or is an employee or agent of the manufacturer.

HB 885

2012

364 (g) The distinctive number from the personal
365 identification card of the person delivering the regulated
366 metals property to the secondary metals recycler.

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

369 1. Full name, current residential address, workplace, and
370 home and work phone numbers.

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

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

374 4. Vehicle description to include the make, model, and tag
375 number of the vehicle and trailer of the person selling the
376 regulated metals property.

377 5. Any other information required by the form approved by
378 the Department of Law Enforcement.

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

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

384 (3) ~~Any secondary metals recycler that maintains an~~
385 ~~electronic database containing the information required in~~
386 ~~paragraph (2) (h), along with an oath of ownership with a~~
387 ~~signature of the seller of the secondary metals being purchased~~
388 ~~by the secondary metals recycler and a right thumbprint that has~~
389 ~~no smudges and smears on the oath of ownership for each purchase~~
390 ~~transaction, shall be exempt from the records requirement of~~
391 ~~paragraph (2) (h).~~ A secondary metals recycler complies with the

392 requirements of this section if it maintains an electronic
 393 database containing the information required by subsection (2)
 394 ~~paragraph (2)(h)~~ as long as the electronic information required
 395 by subsection (2) ~~paragraph (2)(h)~~, along with an electronic
 396 oath of ownership with an electronic signature of the seller of
 397 the secondary metals being purchased by the secondary metals
 398 recyclers and an electronic image of the seller's right
 399 thumbprint that has no smudges and smears, can be downloaded
 400 onto a paper form in the image of the form approved by the
 401 Department of Law Enforcement as provided in subsection (2).

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

405 (5) ~~If a purchase transaction involves the transfer of~~
 406 ~~regulated metals property from~~ A secondary metals recycler
 407 registered with the department that purchases a motor vehicle
 408 from a licensed salvage motor vehicle dealer as defined in s.
 409 320.27 or to another secondary metals recycler registered with
 410 the department and uses a mechanical crusher to convert the
 411 vehicle to scrap metal must obtain a signed statement from the
 412 seller stating that the seller has surrendered the vehicle's
 413 certificate of title to the Department of Highway Safety and
 414 Motor Vehicles as provided in s. 319.30 or otherwise complied
 415 with the titling requirements provided by law for conversion of
 416 the vehicle to scrap metal. A, the secondary metals recycler is
 417 not liable for the seller's failure to comply with the titling
 418 requirements provided by law for conversion of a motor vehicle
 419 to scrap metal if the secondary metals recycler obtains and

HB 885

2012

420 maintains the seller's signed statement ~~receiving the regulated~~
421 ~~metals property shall record the name and address of the~~
422 ~~secondary metals recycler from which it received the regulated~~
423 ~~metals property in lieu of the requirements of paragraph (2)(h).~~

424 Section 6. Section 538.235, Florida Statutes, is amended
425 to read:

426 538.235 Method of payment.—

427 (1) A secondary metals recycler may ~~shall~~ not enter into
428 any cash transaction:

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

431 (b) In any amount for the purchase of restricted regulated
432 metals property.

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

436 (3) Payment for the purchase of restricted regulated
437 metals property shall be made by check issued to the seller of
438 the metal and payable to the seller or by electronic payment to
439 the seller's bank account or the seller's employer's bank
440 account.

441 (a) Each check shall be mailed by the secondary metals
442 recycler directly to the street address of the seller that is on
443 file with the secondary metals recycler unless otherwise
444 provided in this part. A check may not be mailed to a post
445 office box. Electronic payments shall be transmitted to an
446 account for which the seller is listed as an account holder or
447 an employee or agent of the seller.

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

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

455 1. An organization, corporation, or association registered
456 with the state as a charitable, philanthropic, religious,
457 fraternal, civic, patriotic, social, or school-sponsored
458 organization or association, or any nonprofit corporation or
459 association;

460 2. A law enforcement officer acting in an official
461 capacity;

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

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

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

472 6. A manufacturing, industrial, or other commercial vendor
473 that generates regulated materials in the ordinary course of
474 business.

475 Section 7. Section 538.26, Florida Statutes, is amended to
 476 read:

477 538.26 Certain acts and practices prohibited.—It is
 478 unlawful for a secondary metals recycler to do or allow any of
 479 the following acts:

480 (1) Purchase regulated metals property, restricted
 481 regulated metals property, or ferrous metals on weekdays before
 482 7 a.m. or after 6 p.m., on Saturdays before 7 a.m. or after 3
 483 p.m., and on Sundays. ~~between the hours of 9 p.m. and 6 a.m.~~

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

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

488 (2)~~(4)~~ Purchase regulated metals property, restricted
 489 regulated metals property, or ferrous metals from any seller who
 490 presents such property for sale at the registered location of
 491 the secondary metals recycler when such property was not
 492 transported in a motor vehicle.

493 (3)~~(5)~~ Purchase regulated metals property, restricted
 494 regulated metals property, or ferrous metals ~~in return for money~~
 495 ~~from a trailer, a vehicle, or any location other than a fixed~~
 496 ~~location or from any person who is required to prove ownership~~
 497 ~~pursuant to subsection (4). However, regulated metals may be~~
 498 ~~purchased from a nonfixed location, or from such person, with~~
 499 ~~any negotiable or nonnegotiable instrument, including a check or~~
 500 ~~draft or any other type of instrument purchased with money and~~
 501 ~~sold for the purpose of making payments or transfers to others.~~

502 (4) (a) Purchase any restricted regulated metals property

HB 885

2012

503 listed in paragraph (b) unless the secondary metals recycler
504 obtains reasonable proof that the seller:

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

507 2. Is an employee, agent, or contractor of the property's
508 owner who is authorized to sell the property on behalf of the
509 owner. Reasonable proof of authorization to sell the property
510 includes, but is not limited to, a signed letter on the owner's
511 letterhead, dated no later than 90 days before the sale,
512 authorizing the seller to sell the property.

513 (b) The purchase of any of the following regulated metals
514 property is subject to the restrictions provided in paragraph
515 (a):

516 1. A manhole cover.

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

520 3. A guard rail.

521 4. A street sign, traffic sign, or traffic signal and its
522 fixtures and hardware.

523 5. Communication, transmission, distribution, and service
524 wire from a utility, including copper or aluminum bus bars,
525 connectors, grounding plates, or grounding wire.

526 6. A funeral marker or funeral vase.

527 7. A historical marker.

528 8. Railroad equipment, including, but not limited to, a
529 tie plate, signal house, control box, switch plate, E clip, or
530 rail tie junction.

- 531 9. Any metal item that is observably marked upon
532 reasonable inspection with any form of the name, initials, or
533 logo of a governmental entity, utility company, cemetery, or
534 railroad.
- 535 10. A copper, aluminum, or aluminum-copper condensing or
536 evaporator coil, including its tubing or rods, from an air-
537 conditioning or heating unit, excluding coils from window air-
538 conditioning or heating units and motor vehicle air-conditioning
539 or heating units.
- 540 11. An aluminum or stainless steel container or bottle
541 designed to hold propane for fueling forklifts.
- 542 12. A stainless steel beer keg.
- 543 13. A catalytic converter or any nonferrous part of a
544 catalytic converter unless purchased as part of a motor vehicle.
- 545 14. Metallic wire that has been burned in whole or in part
546 to remove insulation.
- 547 15. A brass or bronze commercial valve or fitting,
548 referred to as a "fire department connection and control valve"
549 or an "FDC valve," that is commonly used on structures for
550 access to water for the purpose of extinguishing fires.
- 551 16. A brass or bronze commercial potable water backflow
552 preventer valve that is commonly used to prevent backflow of
553 potable water from commercial structures into municipal domestic
554 water service systems.
- 555 17. A shopping cart.
- 556 18. A brass water meter.
- 557 19. A storm grate.
- 558 20. A brass sprinkler head used in commercial agriculture.

HB 885

2012

559 Section 8. Section 538.28, Florida Statutes, is created to
 560 read:

561 538.28 Local government regulation; preemption.-

562 (1) The regulation of purchase transactions involving
 563 regulated metals property is preempted to the state. Except as
 564 provided in subsection (2), an ordinance or regulation adopted
 565 by a county or municipality relating to the purchase or sale of
 566 regulated metals property or the registration or licensure of
 567 secondary metals recyclers is void.

568 (2) This part does not preempt an ordinance or regulation
 569 originally enacted by a county or municipality before March 1,
 570 2012.

571 Section 9. For the purpose of incorporating the amendments
 572 made by this act to sections 538.19, 538.235, and 538.26,
 573 Florida Statutes, in references thereto, paragraph (a) of
 574 subsection (1) of section 538.23, Florida Statutes, is reenacted
 575 and amended to read:

576 538.23 Violations and penalties.-

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

- 579 1. Violates s. 538.20 or s. 538.21;
- 580 2. Engages in a pattern of failing to keep records
 581 required by s. 538.19;
- 582 3. Violates s. 538.26(2) ~~538.26(4)~~; or
- 583 4. Violates s. 538.235,

584
 585 commits a misdemeanor of the first degree, punishable as
 586 provided in s. 775.082.

HB 885

2012

587

Section 10. This act shall take effect July 1, 2012.