

1 SB327
2 127167-1
3 By Senators Brooks and Glover
4 RFD: Small Business
5 First Read: 05-APR-11

8 SYNOPSIS: Under existing law, a secondary metals
9 recycler required to maintain certain information
10 regarding purchases of metal property. Under
11 existing law, a secondary metals recycler may not
12 purchase a motor vehicle for scrap without first
13 obtaining a title for the motor vehicle.

14 This bill would require a secondary metals
15 recycler to maintain a copy of the identification
16 card of the seller and additional information with
17 regard to purchases of metal property when the
18 person delivering the metal property is not the
19 same person receiving consideration for the metal
20 property.

21 This bill would require a secondary metals
22 recycler to notify the sheriff of the county in
23 which the secondary metals recycler intends to
24 conduct business of certain information concerning
25 the business and would authorize the sheriff to
26 inspect the proposed business site.

1 This bill would limit the number of
2 catalytic converters a secondary metals recycler
3 could purchase from the same person per day.

4 This bill would provide that a secondary
5 metals recycler before purchasing any type of
6 bronze object used to mark a memorial site must
7 obtain and provide to law enforcement a notice of
8 knowledge of the sale from the cemetery or other
9 location.

10 This bill would prohibit a secondary metals
11 recycler from purchasing metal property from a
12 person younger than age 18.

13 This bill would provide further requirements
14 for purchases by a secondary metals recycler of
15 motor vehicles for scrap or remelting purposes.

16 This bill would require the secondary metals
17 recycler to maintain records with regard to each
18 vehicle purchased. This bill would prohibit a
19 person to transport any motor vehicle across state
20 lines for the purpose of selling it for scrap or
21 recycling without first obtaining a certificate of
22 title.

23 This bill would provide criminal penalties
24 for violations.

25 Amendment 621 of the Constitution of Alabama
26 of 1901, now appearing as Section 111.05 of the
27 Official Recompilation of the Constitution of

1 Alabama of 1901, as amended, prohibits a general
2 law whose purpose or effect would be to require a
3 new or increased expenditure of local funds from
4 becoming effective with regard to a local
5 governmental entity without enactment by a 2/3 vote
6 unless: it comes within one of a number of
7 specified exceptions; it is approved by the
8 affected entity; or the Legislature appropriates
9 funds, or provides a local source of revenue, to
10 the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in the amendment.
18

19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 Relating to secondary metals recyclers; to amend
24 Sections 13A-8-31 and 13A-8-35, Code of Alabama 1975; to
25 provide further for the information that must be maintained by
26 the secondary metals recycler; to require notification to the
27 sheriff of the business location and to authorize inspection

by the sheriff; to limit certain purchases by a secondary metals recycler; to prohibit purchases from persons under a certain age; to provide additional requirements and restrictions on purchases of motor vehicles for scrap or remelting; to provide criminal penalties; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 13A-8-31 and 13A-8-35, Code of Alabama 1975, are amended to read as follows:

"§13A-8-31.

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

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

"(2) The date of the transaction.

"(3) The weight, quantity, or volume and a description of the type of metal property purchased in a purchase transaction. For purposes of this subdivision, the

1 term type of metal property shall include a general physical
2 description, such as wire, tubing, extrusions, or casting.

3 "(4) The amount of consideration given in a purchase
4 transaction for the metal property.

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

9 "(6) The name and address, including city, county,
10 and state, of the person delivering the metal property to the
11 secondary metals recycler.

12 "(7) The distinctive number from, and type of, the
13 personal identification card of the person delivering the
14 metal property to the secondary metals recycler and a video or
15 photographic copy of the identification card.

16 "(8) The vehicle license tag number, state of issue,
17 and the type of vehicle, including make and color if
18 available, used to deliver the metal property to the secondary
19 metals recycler. For purposes of this subdivision, the term
20 "type of vehicle" shall mean an automobile, pickup truck, van,
21 or truck.

22 "(b) If the person delivering the metal property is
23 not the person receiving consideration for that metal
24 property, the information required in subdivisions (6) and (7)
25 shall be maintained with respect to the person receiving
26 consideration for the metal property and the person delivering
27 the metal property.

"(c) A secondary metals recycler shall enter all information required by this section into a database approved by the sheriff of the county in which the secondary metals recycler conducts business. The information required to be entered into the database shall be transmitted electronically to the sheriff within 24 hours.

"(d) The secondary metals recycler shall pay by check any person delivering metal property regulated by this chapter, who does not provide the secondary metals recycler with an identification card that displays an address located in the county where the metal property is sold. The check shall be mailed to the current address of the person selling the metal property.

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

"(c) (f) A secondary metals recycler shall maintain or cause to be maintained the information required by

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

3 "§13A-8-35.

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

6 " (1) A law enforcement officer acting in an official
7 capacity unless the law enforcement officer is disposing of
8 metal property related to an investigation regarding a
9 compliance issue pursuant to this chapter.

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

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

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

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

22 Section 2. All secondary metals recyclers subject to
23 Article 1A, Chapter 8 of Title 13A, Code of Alabama 1975,
24 shall notify in writing the sheriff of the county in which
25 they intend to conduct business. The notification shall
26 include the name of the business, address of the business, and
27 the name of the owner or owners of the business. Along with

the notification, the secondary metals recycler shall present to the sheriff of the county in which the secondary metals recycler conducts business a copy of the county business license or other regulatory license. This requirement shall apply to any secondary metals recycler who is operating a business that was not operating or did not have a current county business license on the effective date of this act.

Upon receipt of the notification, the sheriff shall conduct an inspection at the proposed business site to insure that the business is properly set up to comply with all requirements of Article 1A, Chapter 8 of Title 13A, Code of Alabama 1975.

Section 3. (a) No secondary metals recycler may purchase or receive more than one catalytic converter per day from the same person except from a motor vehicle dealer or other secondary metals recycler who handles vehicles in the normal course of his or her business.

(b) Any vehicle purchased pursuant to this act shall be held a minimum of 48 hours prior to being crushed or being removed from the recycle yard from which it was stored after being purchased.

(c) It shall be a Class C felony, regardless of the value of the metal property, for a person to sell to a secondary metals recycler or for a secondary metals recycler to purchase for scrap metal any bronze vase, marker, memorial, statue, plaque, or other bronze object used at a cemetery or other location where deceased persons are interred or memorialized unless the source of the bronze is known by the

1 secondary metals recycler and notice is provided to the
2 municipal or county law enforcement agency where the secondary
3 metals recycler is located. The notice shall identify all
4 names, letters, dates, and symbols on the bronze and a
5 photograph of the bronze shall be attached thereto. The
6 secondary metals recycler shall obtain written permission from
7 the cemetery and the appropriate law enforcement agency before
8 any type of bronze described in this subsection may be
9 purchased, processed, sold, or melted.

10 (d) It shall be a Class A misdemeanor for a scrap
11 metal recycler or other purchaser to purchase metal property
12 from a person younger than 18 years of age.

13 Section 4. (a) For purposes of this section, the
14 following words have the following meanings:

15 (1) DEALER. Any person licensed as an automobile or
16 motor vehicle dealer, or travel trailer dealer and engaged
17 regularly in the business of buying, selling, or exchanging
18 motor vehicles, trailers, semitrailers, trucks, tractors, or
19 other character of commercial or industrial motor vehicles.

20 (2) MOTOR VEHICLE. Every automobile, motorcycle,
21 mobile trailer, semitrailer, truck, truck tractor, trailer,
22 and other device that is self-propelled or drawn, in, upon, or
23 by which any person or property is or may be transported or
24 drawn upon a public highway except such as is moved by animal
25 power or used exclusively upon stationary rails or tracks, a
26 trailer coach or travel trailer manufactured upon a chassis or

1 undercarriage as an integral part thereof drawn by a
2 self-propelled vehicle.

3 (3) SCRAP MOTOR VEHICLE. Any vehicle that has been
4 crushed or flattened by mechanical means or which has been
5 otherwise damaged to the extent that it cannot economically be
6 repaired or made roadworthy.

7 (4) WRECKER. Any motor vehicle used for the purpose
8 of towing or removing motor vehicles from one location to
9 another location, for any purpose.

10 (5) WRECKER BUSINESS. Any person licensed or
11 unlicensed using a wrecker for towing or removing motor
12 vehicles from one location to another location, for any
13 reason.

14 (6) WRECKER OPERATOR. Any person who drives or
15 otherwise uses a wrecker for wrecker business even if that
16 person has not obtained a license to operate a wrecker
17 business.

18 (b) No person shall transport or cause to be
19 transported a motor vehicle or scrap motor vehicle from any
20 point in this state to any point outside of this state for the
21 purposes of selling the motor vehicle or scrap motor vehicle
22 to any secondary metals recycler or as metal property without
23 first obtaining a certificate of title for the motor vehicle.

24 (c) A dealer or wrecker business that purchases a
25 motor vehicle or scrap motor vehicle for the purposes of being
26 sold to a secondary metals recycler or as metal property shall
27 photocopy the personal identification card of the person whose

1 name appears on the certificate of title, the certificate of
2 title, and a bill of sale for the vehicle and maintain a
3 record of the documents for no less than three years.

4 (d) A scrap metal processor who acquires a motor
5 vehicle for the purpose of recycling into a metallic scrap for
6 remelting purposes shall surrender the certificate of title to
7 the Department of Revenue for cancellation in a manner as
8 prescribed by the department. Each scrap metal processor shall
9 maintain records of every motor vehicle acquired for the
10 purpose of recycling into metallic scrap for remelting
11 purposes. The records shall be maintained by the scrap metal
12 processor for a period of not less than five years and shall
13 include the vehicle identification number, name, and address
14 of the seller, copy of the seller's driver's license or
15 identification card, the date of sale, and a copy of the
16 certificate of title surrendered to the department.

17 (e) Requirements in this section that apply to motor
18 vehicles are in addition to those requirements set out in
19 Section 32-8-87, Code of Alabama 1975, and are not to conflict
20 with that section.

21 (f) A person who violates this section, upon
22 conviction, shall be guilty of a Class A misdemeanor.

23 Section 5. Although this bill would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds, the bill is excluded from further
26 requirements and application under Amendment 621, now
27 appearing as Section 111.05 of the Official Recompilation of

1 the Constitution of Alabama of 1901, as amended, because the
2 bill defines a new crime or amends the definition of an
3 existing crime.

4 Section 6. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.