

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

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

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

This bill would require a secondary metals recycler to notify the sheriff of the county in which the secondary metals recycler intends to conduct business of certain information concerning the business and would authorize the sheriff to 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

1 by the sheriff; to limit certain purchases by a secondary  
2 metals recycler; to prohibit purchases from persons under a  
3 certain age; to provide additional requirements and  
4 restrictions on purchases of motor vehicles for scrap or  
5 remelting; to provide criminal penalties; and in connection  
6 therewith would have as its purpose or effect the requirement  
7 of a new or increased expenditure of local funds within the  
8 meaning of Amendment 621 of the Constitution of Alabama of  
9 1901, now appearing as Section 111.05 of the Official  
10 Recompilation of the Constitution of Alabama of 1901, as  
11 amended.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15 "§13A-8-31.

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

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

23 "(2) The date of the transaction.

24 "(3) The weight, quantity, or volume and a  
25 description of the type of metal property purchased in a  
26 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.

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

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

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

26           "~~(c)~~ (f) A secondary metals recycler shall maintain  
27 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



1 the notification, the secondary metals recycler shall present  
2 to the sheriff of the county in which the secondary metals  
3 recycler conducts business a copy of the county business  
4 license or other regulatory license. This requirement shall  
5 apply to any secondary metals recycler who is operating a  
6 business that was not operating or did not have a current  
7 county business license on the effective date of this act.  
8 Upon receipt of the notification, the sheriff shall conduct an  
9 inspection at the proposed business site to insure that the  
10 business is properly set up to comply with all requirements of  
11 Article 1A, Chapter 8 of Title 13A, Code of Alabama 1975.

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

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

21 (c) It shall be a Class C felony, regardless of the  
22 value of the metal property, for a person to sell to a  
23 secondary metals recycler or for a secondary metals recycler  
24 to purchase for scrap metal any bronze vase, marker, memorial,  
25 statue, plaque, or other bronze object used at a cemetery or  
26 other location where deceased persons are interred or  
27 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 Recompile 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.