

1 HB278
2 136303-3
3 By Representatives Poole, DeMarco, Wood, Robinson (O),
4 Williams (J), Farley, Roberts, McMillan, Buttram, Clouse,
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10 Nordgren, Greer, Rogers, Moore (M), Coleman, McAdory, Boman,
11 Jackson, Grimsley, Boyd, Howard, Buskey, Kennedy, Barton,
12 Colston, Scott, Melton, Davis and Wren
13 RFD: Judiciary
14 First Read: 09-FEB-12

ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 13A-8-30, 13A-8-31, 13A-8-32, 13A-8-33, 13A-8-34, 13A-8-35, 13A-8-36, 13A-8-37, and 13A-8-39, Code of Alabama 1975, relating to secondary metals recyclers, to require a secondary metals recycler to maintain additional records relating to the purchase of ferrous and nonferrous metals; to further provide for the limits on purchases by secondary metals recyclers for certain metal; to require secondary metals recyclers to register with the Alabama Criminal Justice Information Center (ACJIC) or other responsible agency; ACJIC or another responsible agency to maintain a database of certain information collected by secondary metals recyclers relating to the purchase of metal products; provide certain civil immunity for public or private owners of metal property for certain injuries related to metal property; to provide criminal penalties for damaging or destroying certain metal property and would provide further criminal penalties for the possession of certain stolen metal property; to place restrictions on secondary metals recyclers relating to the purchase of specified metal property; to add Sections 13A-8-31.1, 13A-8-31.2, 13A-8-35.1, 13A-8-37.1, and

1 13A-8-37.2 to the Code of Alabama 1975; and in connection
2 therewith would have as its purpose or effect the requirement
3 of a new or increased expenditure of local funds within the
4 meaning of Amendment 621 of the Constitution of Alabama of
5 1901, now appearing as Section 111.05 of the Official
6 Recompilation of the Constitution of Alabama of 1901, as
7 amended.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 13A-8-30, 13A-8-31, 13A-8-32,
10 13A-8-33, 13A-8-34, 13A-8-35, 13A-8-36, 13A-8-37, and
11 13A-8-39, Code of Alabama 1975, are amended to read as
12 follows:

13 "§13A-8-30.

14 "As used in this article, the following terms have
15 the following meanings:

16 "(1) FERROUS METALS. Any metals containing
17 significant quantities of iron or steel, excluding motor
18 vehicles purchased in accordance with Section 32-8-87.

19 "(2) LAW ENFORCEMENT OFFICER. A duly constituted and
20 certified peace officer of the State of Alabama or of any
21 county or municipality within the state.

22 "(3) METAL PROPERTY. Metals as defined in this
23 section as either ferrous or nonferrous metals.

24 "(4) NONFERROUS METALS. Metals not containing
25 significant quantities of iron or steel, including, without
26 limitation, copper, brass, aluminum other than aluminum cans,

1 bronze, lead, zinc, nickel, stainless steel, and alloys
2 thereof, including stainless steel beer kegs.

3 "(5) PERSON. An individual, partnership,
4 corporation, joint venture, trust, association, or any other
5 legal entity.

6 "(6) PERSONAL IDENTIFICATION CARD. A driver's
7 license or identification card issued by the Department of
8 Public Safety or a similar card issued by another state, a
9 military identification card, a passport, or an appropriate
10 work authorization issued by the U.S. Citizenship and
11 Immigration Services of the Department of Homeland Security.

12 "(7) PHOTOGRAPH. A still photographic image,
13 including images captured in digital format, which are of such
14 quality that the persons and objects depicted are
15 identifiable.

16 "~~(7)~~ (8) PURCHASE TRANSACTION. A transaction in
17 which a secondary metals recycler gives consideration in
18 exchange for regulated metal property.

19 "~~(8)~~ (9) SECONDARY METALS RECYCLER. Any person,
20 whether licensed or not licensed, who is engaged, from a fixed
21 location or otherwise, in the business of paying compensation
22 for ferrous or nonferrous metals, whether or not engaged in
23 the business of performing the manufacturing process by which
24 ferrous metals or nonferrous metals are converted into raw
25 material products consisting of prepared grades and having an
26 existing or potential economic value. The term does not
27 include a pawnbroker licensed pursuant to Chapter 19A of Title

1 5, or a licensed automotive dismantler and parts recycler as
2 defined in Section 40-12-410, unless the entities engage in
3 the business of paying compensation for ferrous or nonferrous
4 metals.

5 "§13A-8-31.

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

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

13 "(2) The name or identification of the employee
14 responsible for making the purchase on behalf of the secondary
15 metals recycler.

16 "~~(2)~~ (3) The date and time of the transaction.

17 "~~(3)~~ (4) The weight, quantity, or volume and a
18 description of the type of metal property purchased in a
19 purchase transaction. For purposes of this subdivision, the
20 term "type of metal property" shall include a general physical
21 description, such as wire, tubing, extrusions, or casting.

22 "~~(4)~~ (5) The amount of consideration given in a
23 purchase transaction for the metal property.

24 "~~(5)~~ (6) A signed statement from the person
25 receiving consideration in the purchase transaction stating
26 that he or she is the rightful owner of the metal property or
27 is ~~entitled~~ authorized to sell the metal property being sold.

1 ~~"(6)~~ (7) The name and address of the person
2 delivering the metal property to the secondary metals
3 recycler.

4 ~~"(7)~~ (8) ~~The~~ A photocopy or scanned copy of the
5 personal identification card of the person delivering the
6 metal property to the secondary metals recycler, including the
7 distinctive number from, and type of, the personal
8 identification card of the person delivering the metal
9 property to the secondary metals recycler.

10 ~~"(8)~~ (9) The vehicle license tag number, and state
11 of issue, or the vehicle identification number if no vehicle
12 license tag is available, and the type of vehicle, ~~if~~
13 ~~available,~~ used to deliver the metal property to the secondary
14 metals recycler. For purposes of this subdivision, the term
15 "type of vehicle" shall mean an automobile, pickup truck, van,
16 or truck.

17 "(10) A digital photograph or video recording of the
18 person delivering or receiving consideration for the metal
19 property delivered to the secondary metals recycler in which
20 the person's facial features are clearly visible and a
21 photograph or video recording of the metal property as
22 delivered or sold in which the type of metal property is
23 identifiable. The time and date shall be digitally recorded on
24 the photographs or video recording.

25 ~~"(b) The secondary metals recycler shall not enter~~
26 ~~into any cash transactions in excess of one hundred dollars~~
27 ~~(\$100) for copper or in excess of one thousand dollars~~

1 ~~(\$1,000) for all other metals in payment for the purchase of~~
2 ~~the metal property. Payment shall be made by check issued to~~
3 ~~the seller of the metal. The check shall be payable to the~~
4 ~~name and address of the seller of the metal and mailed to the~~
5 ~~recorded address of the seller or picked up in person by the~~
6 ~~seller. The secondary metals recycler, at his or her~~
7 ~~discretion, may make payment by either cash or check for~~
8 ~~transactions of one hundred dollars (\$100) or less for copper~~
9 ~~or one thousand dollars (\$1,000) or less for all other metals.~~

10 ~~"(c)~~ (b) A secondary metals recycler shall maintain
11 or cause to be maintained the information required by
12 subsection (a) for not less than ~~two years~~ one year from the
13 date of the purchase transaction.

14 "(c) Any person who intentionally violates the
15 requirements of subsections (a) or (b) shall be guilty of a
16 Class B misdemeanor for a first offense, a Class A misdemeanor
17 for a second offense within a five (5) year period, and a
18 Class C felony for a third or subsequent offense within a five
19 (5) year period.

20 "(d) It shall be unlawful for any person to give
21 false information and receive money or other consideration
22 from a secondary metals recycler in return for metal property.
23 Any person in violation this subsection shall be guilty of a
24 Class C felony Class B misdemeanor.

25 "§13A-8-32.

26 "During the usual and customary business hours of a
27 secondary metals recycler, a law enforcement officer, after

1 properly identifying himself or herself as a law enforcement
2 officer ~~and describing the object or objects for which he or~~
3 ~~she is inspecting~~, shall have the right to inspect:

4 "(1) All purchased metal property in the possession
5 of the secondary metals recycler.

6 "(2) All records required to be maintained under
7 Section 13A-8-31.

8 "§13A-8-33.

9 "(a) (1) Whenever a law enforcement officer has
10 reasonable ~~cause~~ suspicion to believe that any item of metal
11 property in the possession of a secondary metals recycler has
12 been stolen, the law enforcement officer, ~~who has an affidavit~~
13 ~~from the alleged rightful owner of the property identifying~~
14 ~~the property with specificity, including any identifying~~
15 ~~markings~~, may issue a hold notice to the secondary metals
16 recycler. The hold notice shall be in writing, shall be
17 delivered to the secondary metals recycler, shall specifically
18 identify those items of metal property that are believed to
19 have been stolen and that are subject to the notice, and shall
20 inform the secondary metals recycler of the information
21 contained in this section.

22 "(2) Upon receipt of the notice, the secondary
23 metals recycler may not process or remove the items of metal
24 property identified in the notice, or any portion thereof,
25 from the place of business of the secondary metals recycler
26 for 15 calendar days after receipt of the notice by the

1 secondary metals recycler, unless sooner released by a law
2 enforcement officer.

3 "(b) (1) No later than the expiration of the 15-day
4 period, a law enforcement officer after receiving additional
5 substantive evidence ~~beyond the initial affidavit~~ may issue a
6 second hold notice to the secondary metals recycler, which
7 shall be an extended hold notice. The extended hold notice
8 shall be in writing, shall be delivered to the secondary
9 metals recycler, shall specifically identify those items of
10 metal property that are believed to have been stolen and that
11 are subject to the extended hold notice, and shall inform the
12 secondary metals recycler of the information contained in this
13 section.

14 "(2) Upon receipt of the extended hold notice, the
15 secondary metals recycler may not process or remove the items
16 of metal property identified in the notice, or any portion
17 thereof, from the place of business of the secondary metals
18 recycler for 30 calendar days after receipt of the extended
19 hold notice by the secondary metals recycler, unless sooner
20 released by a law enforcement officer.

21 "(c) At the expiration of the hold period or, if
22 extended in accordance with this section, at the expiration of
23 the extended hold period, the hold is automatically released
24 and the secondary metals recycler may dispose of the metal
25 property unless other disposition has been ordered by a court
26 of competent jurisdiction.

1 "(d) Any person who intentionally violates the
2 requirements of subsection (a) or (b) shall be guilty of a
3 Class B misdemeanor for a first offense, a Class A misdemeanor
4 for a second offense within a five (5) year period, and a
5 Class C felony for a third or subsequent offense within a five
6 (5) year period.

7 "§13A-8-34.

8 "(a) If the secondary metals recycler contests the
9 identification or ownership of the metal property, the party
10 other than the secondary metals recycler claiming ownership of
11 any metal property in the possession of ~~a~~ the secondary metals
12 recycler may, provided that a timely report of the theft of
13 the metal property was made to the proper authorities, bring
14 an action in the circuit court of the county in which the
15 secondary metals recycler is located. The petition for the
16 action shall include a description of the means of
17 identification of the metal property utilized by the
18 petitioner to determine ownership of the metal property in the
19 possession of the secondary metals recycler. If the person who
20 sold the metal property to the secondary metals recycler is
21 convicted of theft of property or criminal mischief related to
22 the removal of the metal property, the court shall order the
23 defendant to make full restitution to the victim including,
24 without limitation, attorney fees, court costs, and property
25 damage which resulted from the theft of property, and other
26 expenses.

1 "(b) When a lawful owner recovers stolen metal
2 property from a secondary metals recycler who has complied
3 with this article, and the person who sold the metal property
4 to the secondary metals recycler is convicted of a violation
5 of this article, or theft by receiving stolen property, the
6 court shall order the defendant to make full restitution,
7 including, without limitation, attorneys' fees, court costs,
8 and other expenses to the secondary metals recycler.

9 "§13A-8-35.

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

12 "(1) A law enforcement officer acting in an official
13 capacity unless the law enforcement officer is investigating a
14 compliance issue pursuant to this chapter or is presenting
15 metal property for sale.

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

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

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

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

1 "§13A-8-36.

2 "(a) It shall be unlawful for any person to give a
3 false statement of ownership or to give a false or altered
4 identification or vehicle tag number and receive money or
5 other consideration from a secondary metals recycler in return
6 for metal property. is unlawful for a person with the intent
7 to damage property and having no right to do so or any
8 reasonable ground to believe that he or she has such a right,
9 damages or destroys to damage or destroy any of the following:

10 "(1) Telecommunications, cable communications, or
11 electric power transmission pedestal or pole owned or operated
12 by a telecommunications, cable, or electric power company or
13 cooperative, electric power supplier, or railroad.

14 "(2) Telecommunications, cable communications, or
15 electric power grounding or any other equipment or materials
16 used in the delivery of electricity, wire, fiber insulator,
17 power supply transformer, ground wire, or other apparatus,
18 equipment, or fixture used in the transmission of
19 telecommunications, cable communications, or electric power
20 owned or operated by a telecommunications, cable, or electric
21 power company or cooperative, electric power supplier, or
22 railroad.

23 "(3) Equipment used in the transmission of wireless
24 communications or related to wireless communications.

25 "(4) Equipment used at any facility of over the air
26 broadcast companies.

1 "(5) Railroad materials and lading, including, but
2 not limited to, any rail telecommunications; cable
3 communications; power and signal equipment and wires;
4 road/rail crossing signals, equipment, and wires; metal
5 property lading being transported by a railroad; and any
6 railroad track and other operating materials, including switch
7 component, spike, angle bar, tie plate or bolt of the type
8 used in constructing railroads.

9 "(6) Electric power line, gas line, water line, wire
10 or fiber insulators, electric motors or other apparatus,
11 heating and cooling systems, and environmental control systems
12 that are connected to farm shops, on-farm grain drying and
13 storage complexes, animal production facilities, irrigation
14 systems, greenhouse facilities, or other agricultural,
15 forestry, or food-related activities, equipment, structures,
16 systems, or vehicles.

17 "(7) Any electric power line, gas line, water line,
18 wire or fiber insulators, fencing, gates, security structures,
19 electric motors or other apparatus, metering instruments,
20 communications antenna, environmental control systems, and
21 processing plants that are connected to oil, natural gas,
22 coalbed methane, shale gas, or other petroleum producing
23 properties, equipment, structures, systems, or vehicles.

24 "(8) Any metal property from a school, place of
25 worship, or a secondary metals recycler's premises.

26 "(b) Any person in violation of this section shall
27 be guilty of a Class C felony.

1 "(c) Any person in violation of this section shall
2 be guilty of a Class B felony if the damage or destruction
3 causes or may cause imminent danger to the health and safety
4 of the public, a metal owner's employees, first responders,
5 law enforcement officers, or utility workers, or cause an
6 interruption in communications services or electric utility
7 services. For purposes of this subsection, "imminent danger"
8 means the existence of any condition that could hinder or
9 disrupt the normal operation of equipment, systems, or
10 services provided for the health and safety of the public,
11 metal owner's employees, first responders, law enforcement
12 officers, or utility workers or cause an interruption in
13 communications services or electric utility services.

14 "(d) At the time of sentencing of any person
15 convicted under this section, the judge may order restitution
16 in an amount determined by the court; provided, however, the
17 amount shall not be less than the value of the metal property
18 determined to have been damaged or stolen and shall include
19 the cost of replacement and the cost to repair any and all
20 damage caused during the commission of the crime for which the
21 person is convicted.

22 "§13A-8-37.

23 ~~"(a) Any person selling metal property to a~~
24 ~~secondary metals recycler in violation of this article shall~~
25 ~~be guilty of:~~

1 ~~"(1) A Class A misdemeanor if the value of the~~
2 ~~transaction or transactions in an aggregate amount is less~~
3 ~~than five hundred dollars (\$500).~~

4 ~~"(2) A Class C felony if the value of the~~
5 ~~transaction or transactions in an aggregate amount exceeds~~
6 ~~five hundred dollars (\$500), but does not exceed two thousand~~
7 ~~five hundred dollars (\$2,500) in value.~~

8 ~~"(3) A Class B felony if the value of the~~
9 ~~transaction or transactions in an aggregate amount exceeds two~~
10 ~~thousand five hundred dollars (\$2,500).~~

11 ~~"(b) At the time of sentencing of any person~~
12 ~~convicted under this article, the court may order restitution.~~

13 ~~"(c) Any secondary metals recycler who knowingly and~~
14 ~~intentionally engages in any practice which constitutes a~~
15 ~~violation of this article shall be guilty of a misdemeanor,~~
16 ~~provided that if a secondary metals recycler knowingly and~~
17 ~~intentionally engages in a pattern of practices which~~
18 ~~constitutes a violation of this article and the transactions~~
19 ~~included in this pattern are in an aggregate amount which~~
20 ~~exceeds five hundred dollars (\$500), the secondary metals~~
21 ~~recycler shall be guilty of a Class C felony.~~

22 " (a) It is unlawful for a person to possess or
23 control the following property knowing that it has been stolen
24 or having reasonable grounds to believe it has been stolen,
25 unless the property is possessed or controlled with intent to
26 restore it to the owner:

1 "(1) Metal property marked with the initials of an
2 electrical company, a telephone company, a cable company,
3 another public utility, a railroad, or a brewer.

4 "(2) Utility access covers, manhole covers, or storm
5 drain covers, unless the seller is a company that deals in the
6 manufacture or sale of the aforementioned products.

7 "(3) Street light poles and fixtures, unless the
8 seller is a company that deals in the manufacture or sale of
9 the aforementioned products.

10 "(4) Road and bridge guard rails unless the seller
11 is a company that deals in the manufacture or sale of the
12 aforementioned products.

13 "(5) Highway or street signs, traffic light signals,
14 and traffic directional and control signs unless the seller is
15 a company that deals in the manufacture or sale of the
16 aforementioned products.

17 "(6) Water meter covers unless the seller is a
18 company that deals in the manufacture or sale of the
19 aforementioned products.

20 "(7) Metal beer kegs including those made of
21 stainless steel that are clearly marked as being the property
22 of a beer manufacturer unless the seller is a company that
23 deals in the manufacture or sale of the aforementioned
24 products.

25 "(8) Metal property marked with the name of a
26 government entity.

1 "(9) Unused and undamaged building construction or
2 utility materials consisting of copper, pipe, tubing or
3 wiring, aluminum wire, or historical markers.

4 "(10) Grave markers, vases, memorials, statues,
5 plaques, or other bronze objects used at a cemetery or other
6 location where deceased persons are interred or memorialized,
7 unless the seller is a company that deals in the manufacture
8 or sale of the aforementioned products.

9 "(b) Any person who intentionally violates the
10 requirements of subdivision (a) (2) or (a) (10) shall be guilty
11 of a Class C felony for a first offense, a Class B felony for
12 a second offense, and a Class A felony for a third or
13 subsequent offense. of a Class A misdemeanor for a first
14 offense and a Class C felony for a second or subsequent
15 offense.

16 "(c) Any person who intentionally violates the
17 requirements of subdivision (1), (3), (4), (5), (6), (7), (8),
18 or (9) of subsection (a) shall be guilty of a Class B
19 misdemeanor for a first offense, a Class A misdemeanor for a
20 second offense, and a Class C felony for a third or subsequent
21 offense.

22 "§13A-8-39.

23 "This article shall apply to all businesses
24 regulated under this article without regard to the location
25 within the State of Alabama and shall take precedence over any
26 and all local ordinances governing purchase transactions of
27 metal property by a secondary metals recycler; ~~provided~~

1 ~~however, that any ordinance in effect on July 1, 2010, shall~~
2 ~~be held to be in full force and effect and shall not be~~
3 ~~subject to this section.~~

4 Section 2. Sections 13A-8-31.1, 13A-8-31.2,
5 13A-8-35.1, 13A-8-37.1, and 13A-8-37.2, are added to the Code
6 of Alabama 1975, as follows:

7 §13A-8-31.1.

8 (a) A secondary metals recycler may not enter into
9 any cash transactions in excess of fifty dollars (\$50) for
10 copper, copper/aluminum air conditioning coils, or catalytic
11 convertors, or any items described in subdivision (a)(2) or
12 (a)(10) of Section 13A-8-37, or in excess of five hundred
13 dollars (\$500) for all other metals in payment for the
14 purchase of metal property. Payment by check may be made
15 payable only to the person whose information was recorded
16 pursuant to Section 13A-8-31.

17 (b) It shall be unlawful for a secondary metals
18 recycler to purchase metal property from a person younger than
19 18 years of age.

20 (c) Metal property may not be purchased between the
21 hours of 9:00 P.M. and 6:00 A.M.

22 (d) Any person who intentionally violates the
23 requirements of this section shall be guilty of a Class B
24 misdemeanor for a first offense, a Class A misdemeanor for a
25 second offense, and a Class C felony for a third or subsequent
26 offense.

27 §13A-8-31.2.

1 (a) All secondary metals recyclers subject to this
2 chapter shall register with the Alabama Criminal Justice
3 Information Center (ACJIC) ~~or other responsible state agency~~
4 within 30 days of the effective date of this section and pay
5 an annual registration fee of \$250. In the event the
6 electronic reporting system is not fully implemented by the
7 effective date of this Act, the record maintenance and
8 reporting requirements of the current law shall remain in full
9 force and effect until such time as the ACJIC electronic
10 reporting system is fully implemented. The registration shall
11 include the name of the business, address of the business,
12 telephone number, and the name of the owner or owners of the
13 business.

14 (b) (1) Prior to January 1, 2013, secondary metals
15 recyclers shall continue to abide by any reporting
16 requirements currently in effect and followed by the
17 recyclers.

18 (2) Effective January 1, 2013, secondary metals
19 recyclers shall enter the information required by subdivisions
20 (1), (3), (4), (5), (7), and (9) of subsection (a) of Section
21 ~~13A-8-3~~ 13A-8-31 into a database maintained by the ACJIC or
22 other responsible state agency and shall transmit such
23 information electronically to the database no later than 9:00
24 P.M. on the day of a purchase transaction. The ACJIC
25 Commission or other responsible state agency in consultation
26 with the members of the Alabama Recycling Association shall
27 promulgate rules, regulations, and policies for the receipt

1 and dissemination of the information in the database through
2 ACJIC information systems. All information reported by
3 secondary metals recyclers pursuant to this section shall be
4 considered to be confidential and privileged and exempt from
5 disclosure under Section 41-13-1. The ACJIC Commission or
6 other responsible state agency shall ensure that adequate
7 safeguards are incorporated and maintained so that the data
8 may be accessed and used only by properly authorized law
9 enforcement agencies ~~or corporate security departments acting~~
10 ~~on behalf of their employers~~ for the purpose of investigating
11 thefts of metal property. Any person releasing or using this
12 data in an unauthorized manner shall be subject to the
13 provisions of Section 13A-10-82.

14 (c) Any person who intentionally violates the
15 requirements of this section shall be guilty of a Class B
16 misdemeanor for a first offense, a Class A misdemeanor for a
17 second offense, and a Class C felony for a third or subsequent
18 offense.

19 §13A-8-35.1.

20 (a) A public or private owner of metal property is
21 not civilly liable to a person who is injured during the theft
22 or attempted theft of metal property in any amount by the
23 person or a third party.

24 (b) A public or private owner of metal property is
25 not civilly liable for a person's injuries caused by a
26 dangerous condition created as a result of the theft or
27 attempted theft of the owner's metal property in any amount

1 when the owner of the metal property did not know and could
2 not have reasonably known of the dangerous condition.

3 (c) This section does not create or impose a duty of
4 care upon an owner of metal property that would not otherwise
5 exist under common law.

6 §13A-8-37.1.

7 (a) It is unlawful for a secondary metals recycler
8 to purchase the following property unless a copy of verifiable
9 documentation in addition to the signed statement required by
10 subdivision (a) (6) of Section 13A-8-31 is provided to the
11 secondary metals recycler that the seller is the owner of the
12 property:

13 (1) Catalytic convertors that are not part of an
14 entire motor vehicle.

15 (2) Metal property of a telephone company, an
16 electric company, a cable company, a water company, another
17 utility, or a railroad marked or otherwise identified as such.

18 (3) Copper wire that has been burned to remove the
19 insulation, unless verifiable documentation is provided that
20 the source of the copper wire was in a building destroyed by
21 fire.

22 (4) A copper, aluminum, or aluminum-copper
23 condensing or evaporating coil, including its tubing or rods,
24 from a heating or air conditioning unit, excluding scrap from
25 window air conditioning units and automobile condenser coils,
26 unless any one of the following criteria are satisfied:

1 a. The condenser coils are being sold by a licensed
2 contractor, HVAC contractor, plumber, or electrician and a
3 current and valid license with number is provided at the time
4 of sale and copied or scanned by the secondary metals recycler
5 at the time of sale.

6 b. The condenser coils are being sold by a person
7 with verifiable documentation, such as a receipt or work
8 order, indicating that the condenser coils are the result of a
9 replacement of an air conditioner unit or condenser coils
10 performed by a licensed contractor.

11 (5) Any metal property that has been brightly
12 painted or marked to deter theft of the property.

13 (6) Ventilation fans or similar fans designed to
14 supply fresh air to workers in confined spaces such as
15 underground mines or other similar circumstances.

16 (b) Any person in violation of this section shall be
17 guilty of a Class B felony.

18 §13A-8-37.2.

19 Compliance by a secondary metals recycler with
20 Sections 13A-8-31, 13A-8-31.1, 13A-8-31.2, and 13A-8-37.1,
21 with regard to a purchase of metal property shall be
22 recognized by law enforcement agencies and the Alabama state
23 courts as evidence that the possession of the metal property
24 is lawful.

25 Section 3. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 09-FEB-12

Read for the second time and placed
on the calendar 6 amendments 16-FEB-12

Read for the third time and passed
as amended..... 01-MAR-12

Yeas 83, Nays 8, Abstains 0

Greg Pappas
Clerk