

Metal Recycling Registry

This Act requires secondary metal recyclers to require identification and maintain a registry of additional information with regard to each purchase of ferrous or nonferrous metals including copper, brass, aluminum, bronze, lead, zinc, and nickel. This allows state and local law enforcement agencies to place a hold on metal purchases by a secondary metal recycler if the metal purchased is suspected of being stolen.

The bill provides criminal penalties for stealing metal and for secondary metal recyclers who fail to comply with these requirements. This Act exempts certain charitable organizations from these requirements, and does not apply to purchases of aluminum cans.

Submitted as:

Alabama

[Act 2007-451](#)

Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Create a Metal Recycling
2 Registry.”

3
4 Section 2. [*Definitions.*] As used in this Act:

5 (1) “Ferrous metals” means any metals containing significant quantities of iron or
6 steel.

7 (2) “Law Enforcement Officer” means a duly constituted and certified peace officer
8 of this state or of any county or municipality within the state.

9 (3) “Metal Property” means metals as defined in this section as either ferrous or
10 nonferrous metals.

11 (4) “Nonferrous Metals” means metals not containing significant quantities of iron
12 or steel, including, without limitation, copper, brass, aluminum other than aluminum cans, bronze,
13 lead, zinc, nickel, stainless steel, and alloys thereof and including stainless steel beer kegs.

14 (5) “Person” means an individual, partnership, corporation, joint venture, trust,
15 association, or any other legal entity.

16 (6) “Personal Identification Card” means a driver’s license or identification card
17 issued by the [department of public safety] or a similar card issued by another state, a Military
18 Identification Card, a passport, or an appropriate work authorization issued by the U.S. Citizenship
19 and Immigration Services of the Department of Homeland Security.

20 (7) “Purchase Transaction” means a transaction in which a secondary metals
21 recycler gives consideration in exchange for regulated metal property.

22 (8) “Secondary Metals Recycler” means any person who is engaged, from a fixed
23 location or otherwise, in the business of paying compensation for ferrous or nonferrous metals that
24 have served their original economic purpose, whether or not engaged in the business of
25 performing the manufacturing process by which ferrous metals or nonferrous metals are converted
26 into raw material products consisting of prepared grades and having an existing or potential
27 economic value.

28

29 Section 3. [*Recording Metal Recycling Transactions.*]

30 (a) A secondary metals recycler shall maintain a legible record of all purchase transactions
31 to which the secondary metals recycler is a party. The record shall include all of the following
32 information:

- 33 (1) the name and address of the secondary metals recycler;
- 34 (2) the date of the transaction;
- 35 (3) the weight, quantity, or volume and a description of the type of metal property
36 purchased in a purchase transaction. For purposes of this subdivision, the term “type of metal
37 property” shall include a general physical description, such as wire, tubing, extrusions, or casting;
- 38 (4) the amount of consideration given in a purchase transaction for the metal
39 property;
- 40 (5) a signed statement from the person receiving consideration in the purchase
41 transaction stating that he or she is the rightful owner of the metal property or is entitled to sell the
42 metal property being sold;
- 43 (6) the name and address of the person delivering the metal property to the
44 secondary metals recycler;
- 45 (7) the distinctive number from, and type of, the personal identification card of the
46 person delivering the metal property to the secondary metals recycler; and
- 47 (8) the vehicle license tag number, state of issue, and the type of vehicle, if
48 available, used to deliver the metal property to the secondary metals recycler. For purposes of this
49 subdivision, the term “type of vehicle” shall mean an automobile, pickup truck, van, or truck.

50 (b) For [three years] following the effective date of this Act, the secondary metal recycler
51 shall not enter into any cash transactions in excess of [one hundred dollars (\$100)] for copper or in
52 excess of [one thousand dollars (\$1,000)] for all other metals in payment for the purchase of the
53 metal property. Payment shall be made by check issued to the seller of the metal. The check shall
54 be payable to the name and address of the seller of the metal and mailed to the recorded address of
55 the seller or picked up in person by the seller. At the end of [three years] this subdivision shall be
56 repealed and subdivision (c) shall apply.

57 (c) Commencing [three years and one day] following the effective date of this Act, the
58 secondary metal recycler shall not enter into any cash transactions in excess of [one thousand
59 dollars (\$1,000)] for any metals in payment for the purchase of the metal property. Payment shall
60 be made by check issued to the seller of the metal. The check shall be payable to the name and
61 address of the seller or picked up in person by the seller.

62 (d) A secondary metals recycler shall maintain or cause to be maintained the information
63 required by subsection (a) of this section for not less than [two years] from the date of the
64 purchase transaction.
65

66 Section 4. [*Law Enforcement Officer’s Right to Inspect Secondary Metals Recycler’s*
67 *Property and Records.*] During the usual and customary business hours of a secondary metals
68 recycler, a law enforcement officer, after properly identifying himself or herself as a law
69 enforcement officer and describing the object or objects for which he or she is inspecting, shall
70 have the right to inspect:

- 71 (1) All purchased metal property in the possession of the secondary metals recycler.
 - 72 (2) All records required to be maintained under section 3 of this Act.
- 73

74 Section 5. [*Hold Notice.*]

75 (a) Whenever a law enforcement officer has reasonable cause to believe that any item of
76 metal property in the possession of a secondary metals recycler has been stolen, the law
77 enforcement officer who has an affidavit from the alleged rightful owner of the property

78 identifying the property with specificity, including any identifying markings, may issue a Hold
79 Notice to the secondary metals recycler. The Hold Notice shall be in writing, shall be delivered to
80 the secondary metals recycler, shall specifically identify those items of metal property that are
81 believed to have been stolen and that are subject to the notice, and shall inform the secondary
82 metals recycler of the information contained in this section. Upon receipt of the notice, the
83 secondary metals recycler may not process or remove the items of metal property identified in the
84 notice, or any portion thereof, from the place of business of the secondary metals recycler for [15
85 calendar days] after receipt of the notice by the secondary metals recycler, unless sooner released
86 by a law enforcement officer.

87 (b) No later than the expiration of the [15-day] period, a law enforcement officer after
88 receiving additional substantive evidence beyond the initial affidavit may issue a second Hold
89 Notice to the secondary metals recycler, which shall be an Extended Hold Notice. The Extended
90 Hold Notice shall be in writing, shall be delivered to the secondary metals recycler, shall
91 specifically identify those items of metal property that are believed to have been stolen and that
92 are subject to the Extended Hold Notice, and shall inform the secondary metals recycler of the
93 information contained in this section. Upon receipt of the Extended Hold Notice, the secondary
94 metals recycler may not process or remove the items of metal property identified in the notice, or
95 any portion thereof, from the place of business of the secondary metals recycler for [30 calendar
96 days] after receipt of the Extended Hold Notice by the secondary metals recycler, unless sooner
97 released by a law enforcement officer.

98 (c) At the expiration of the hold period or, if extended in accordance with this section, at
99 the expiration of the extended hold period, the hold is automatically released and the secondary
100 metals recycler may dispose of the metal property unless other disposition has been ordered by a
101 court of competent jurisdiction.

102
103 Section 6. [*Petition to Determine Ownership of Metal Property.*]

104 (a) If the secondary metals recycler contests the identification or ownership of the metal
105 property, the party other than the secondary metals recycler claiming ownership of any metal
106 property in the possession of a secondary metals recycler may, provided that a timely report of the
107 theft of the metal property was made to the proper authorities, bring an action in the [circuit court]
108 of the county in which the secondary metals recycler is located. The petition for the action shall
109 include a description of the means of identification of the metal property used by the petitioner to
110 determine ownership of the metal property in the possession of the secondary metals recycler. If
111 the person who sold the metal property to the secondary metals recycler is convicted of theft of
112 property or criminal mischief related to the removal of the metal property, the court shall order the
113 defendant to make full restitution to the victim including, without limitation, attorney fees, court
114 costs, property damage which resulted from the theft of property, and other expenses.

115 (b) When a lawful owner recovers stolen metal property from a secondary metals recycler
116 who has complied with this Act, and the person who sold the metal property to the secondary
117 metals recycler is convicted of a violation of this Act, or theft by receiving stolen property, the
118 court shall order the defendant to make full restitution, including, without limitation, attorneys'
119 fees, court costs, and other expenses to the secondary metals recycler.

120
121 Section 7. [*Exemptions.*] This Act shall not apply to purchases of metal property from any
122 of the following:

- 123 (1) A law enforcement officer acting in an official capacity.
124 (2) A trustee in bankruptcy, executor, administrator, or receiver who has presented
125 proof of such status to the secondary metals recycler.

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

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

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

132
133 Section 8. [*False Statements of Ownership of Metal Property.*] It shall be unlawful for any
134 person to give a false statement of ownership or to give a false or altered identification or vehicle
135 tag number and receive money or other consideration from a secondary metals recycler in return
136 for metal property.

137
138 Section 9. [*Penalties.*]

139 (a) Any person selling metal property to a secondary metals recycler in violation of this
140 Act shall be guilty of a [Class A misdemeanor] unless the transaction or transactions in violation
141 of this Act are in an aggregate amount which exceeds [two hundred fifty dollars (\$250)] in which
142 case the person shall be guilty of a [Class C felony].

143 (b) Any secondary metals recycler who knowingly and intentionally engages in any
144 practice which constitutes a violation of this Act shall be guilty of a [misdemeanor], provided that
145 if a secondary metals recycler knowingly and intentionally engages in a pattern of practices which
146 constitutes a violation of this Act and the transactions included in this pattern are in an aggregate
147 amount which exceeds [five hundred dollars (\$500)], the secondary metals recycler shall be guilty
148 of a [Class C felony].

149 (c) This Act shall not be construed to repeal other criminal laws. Whenever conduct
150 prescribed by any provision of this Act is also prescribed by any other provision of law, the
151 provision which carries the more serious penalty shall be applied.

152 (d) This Act shall apply to all businesses regulated under this Act without regard to the
153 location within this state and shall take precedence over any and all local ordinances to the
154 contrary.

155 Section 10. [*Severability.*] [Insert severability clause.]

156
157 Section 11. [*Repealer.*] [Insert repealer clause.]

158
159 Section 12. [*Effective Date.*] [Insert effective date.]
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