

SECONDARY METAL RECYCLERS COMPLIANCE GUIDE (2012)

Generated By:

C.S.R.A. METAL THEFT TASK FORCE
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C.S.R.A METAL THEFT TASK FORCE

If you are not familiar with House Bill 872 (Metal Theft Bill) it is sponsored by Representative Jason Shaw which was passed by the Senate and House on 3/29/12. Governor Nathan Deal signed HB872 into law on 4/16/12 with an effective date of 07/01/12. Effective 07/1/2012 the changes to Georgia's Metal Law which contains so many new and useful tools to help combat metal theft will go into effect.

Below is a compliance guide generated by The Coordinator for the C.S.R.A. Metal Theft Task Force and its members for reference.

****Note****

This document regarding the laws on the purchase and selling of Regulated Metal Property is provided merely as a resource guide to assist Law Enforcement Officers, Secondary Metals Recyclers and the general public in understanding and complying with the legal requirements. This Guide is not offered as legal advice, nor should it be relied upon as a substitute for the advice of one's own legal counsel or reading of the laws.

Contributors to this compliance guide and the verbiage it contains is credited to the following:

Senate House Bill 872

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C.S.R.A. METAL THEFT TASK FORCE MISSION STATEMENT

The C.S.R.A. Metal Theft Task Force is a collaboration of Law Enforcement Agencies and Civilian business with the primary directive of combating metal thefts in jurisdictions surrounding Augusta-Richmond County, GA

Originally organized in the beginning months of 2008 when the price of Ferrous and Non-Ferrous metals spiked fueling metal related thefts in Georgia and South Carolina, which prompted a meeting with criminal investigators / detectives from 12 different law enforcement agencies surrounding Richmond County in an attempt to derive a way to combat metal thefts.

The meeting showed that counties outside Augusta-Richmond have the same metal theft problem; however these counties are smaller with fewer L/E investigators / detective to primarily investigate metal theft cases. The meeting also showed that metal stolen from outside jurisdiction will most likely show up one of the 6 scrap yard here in Augusta-Richmond County. Richmond County Sheriff's Office was chosen as the coordinator for this Task Force based on the fact that R.C.S.O has assigned an investigator with the primary function of investigating metal related thefts.

During this meeting an objective to create an information pipeline of reported thefts from L/E to scrap yard managers. This information pipeline allows L/E agencies outside Augusta-Richmond County to email the reported metal theft, pictures and a detailed description of suspects and vehicles involved; to the C.S.R.A. Metal Theft Task Force coordinator saving the time and manpower of having to travel to local scrap yards to investigate a case. In turn the provided information is quickly disseminated to local scrap yards and R.C.S.O Deputies in the area. This method has proven extremely effective for L/E agencies outside Augusta-Richmond County GA. However, the overall mission of this task force is to deter metal thefts in all of Georgia.

Publicity and visibility at local scrap yards of L/E presence, combined with the knowledge there is a Metal Theft Task force has proven to be an effective crime fighting tool. The purpose is to make it known that suspects will be arrested as they sell stolen metal to local Scrap Yards. In turn suspects couldn't sell it, deterring them from stealing it.

The aggressive PROACTIVE tactics, combined with the formation of the C.S.R.A. Metal Theft Task Force which includes local scrap yard owners and managers combating metal related thefts and damages has become easier.

With the formation of this task force between law enforcement and scrap yards R.C.S.O was able to significantly reduce metal theft related crimes.

Since its original formation in 2008; The C.S.R.A. Metal Theft Task Force has grown from 12 to 44 Law Enforcement members today in 2012.

C.S.R.A METAL THEFT TASK FORCE MEMBERS:

Law Enforcement / Government

Richmond County Sheriff's Office (Coordinator)
Burke County Sheriff's Office (GA)
Columbia County Sheriff's Office (GA)
McDuffie County Sheriff's Office (GA)
Jefferson County Sheriff's Office (GA)
Wrens Police Department (GA)
Thomson Police Department (GA)
Richmond County Board of Education Police Department (GA)
Augusta State University Police Department (GA)
Savannah-Chatham Metropolitan Police Department (GA)
Effingham County Sheriff's Office (GA)
Screven County Sheriff's Office (GA)
Bartow County Sheriff's Office (GA)
Ware County Police Department (GA)
Warren County Sheriff's Office (GA)
Warrenton Police Department (GA)
Gordon County Sheriff's Office (GA)
Kennesaw Police Department (GA) Intelligence Coordinator- Copperhead Metal Theft Strike Force
Georgia College and State University Police Department (GA)
Wilkinson County Sheriff's Office (GA)
Washington County Sheriff's Office (GA)
Tennille Police Department (GA)
Taliaferro County Sheriff's Office (GA)
Glascocock County Sheriff's Office (GA)
McIntosh County Sheriff's Office South Georgia Metal Theft Task Force
Aiken County Sheriff's Office (South Carolina)
Edgefield County Sheriff's Office (South Carolina)
Lexington County Sheriff's Office (South Carolina)
North Augusta Public Safety (South Carolina)
F.B.I. (Safe Street's Task Force)
Department of the Army- Criminal Investigations Command (FT. Gordon-Augusta, GA)
Ft. Gordon (Augusta, GA) Military Police
Georgia Bureau of Investigation
Norfolk Southern Railroad Police
CSX Railroad Police
U.S. Attorney Office
Richmond County District Attorney's Office

Recyclers:

Newell's Recycling Center of Augusta, Georgia
Augusta Recycling Center
Campbell's Recycling Center
C.M.C. Recycling Center of Augusta, Georgia
Direct Metals Recycling
Southern PIK –A – PART (Auto Junk Yard)
Pull-A- Part (Auto Junk Yard)
U.S. Recycling (Warrenton, GA)

Civilian Businesses:

Homebuilders Association of Augusta, Georgia
Meybohm Realtors
Century 21 / Jeff Keller Realty
Georgia Power Co.
Jefferson Electric Company
Aiken Electric Company
AT&T
Verizon Wireless
Sprint Communications

O.C.G.A 10-1-350:

As used in this article, the term:

- (1) 'Aluminum property' means aluminum forms designed to shape concrete.
- (2) 'Burial object' means any product manufactured for or used for identifying or permanently decorating a grave site, including, without limitation, monuments, markers, benches, and vases and any base or foundation on which they rest or are mounted.
- (3) 'Coil' means any copper, aluminum, or aluminum-copper condensing coil or evaporation coil including its tubing or rods. The term shall not include coil from a window air-conditioning system, if contained within the system itself, or coil from an automobile condenser.
- (4) 'Copper property' means any copper wire, copper tubing, copper pipe, or any item composed completely of copper.
- (5) 'Deliverer' means any individual who takes or transports the regulated metal property to the secondary metals recycler.
- (6) 'Ferrous metals' means any metals containing significant quantities of iron or steel.
- (7) 'Law enforcement officer' means any duly constituted peace officer of the State of Georgia or of any county, municipality, or political subdivision thereof.
- (8) 'Nonferrous metals' means stainless steel beer kegs and metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof.
- (9) 'Person' means an individual, partnership, corporation, joint venture, trust, association, or any other legal entity.
- (10) 'Personal identification card' means a current and unexpired driver's license or identification card issued by the Department of Driver Services or a similar card issued by another state, a military identification card, or a current work authorization issued by the federal government, which shall contain the individual's name, address, and photograph.
- (11) 'Purchase transaction' means a transaction in which a the secondary metals recycler gives consideration in exchange for regulated metal property.

(12) 'Regulated metal property' means any item composed primarily of any ferrous metals or nonferrous metals, and includes aluminum property, copper property, and catalytic converters but shall not include batteries, aluminum beverage containers, used beverage containers, or similar beverage containers.

(13) 'Secondary metals recycler' means any person who is engaged, from a fixed location or otherwise, in the business in this state of paying compensation for regulated metal property that have has served their its original economic purpose, whether or not engaged in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are regulated metal property is converted into raw material products consisting of prepared grades and having an existing or potential economic value.

(14) 'Seller' means the rightful owner of the regulated metal property or the individual authorized by the rightful owner of the regulated metal property to conduct the purchase transaction.

This code section clarifies the definition portion of the law

O.C.G.A.10-1-351

(a) No secondary metals ("Scrap Yard") recycler shall purchase any coil unless it is purchased from:

(1) A contractor licensed pursuant to Chapter 14 of Title 43 who provides a copy of his or her valid license at the time of sale that is scanned or photocopied by the secondary metals recycler or whose scanned or photocopied license is on file with the secondary metals recycler;

(2) A seller with verifiable documentation, such as a receipt or work order, indicating that the coils are the result of a replacement of condenser coils or a heating or air-conditioning system performed by a contractor licensed pursuant to Chapter 14 of Title 43; or

(3) A secondary metals recycler who provides the documentation required in paragraphs (1) and (2) of this subsection received from a contractor or seller.

(b) No secondary metals recycler shall purchase any copper wire which appears to have been exposed to heat, charred, or burned in an attempt to remove insulation surrounding it unless it is purchased from:

(1) A contractor licensed pursuant to Chapter 14 of Title 43 who provides a copy of his or her valid license at the time of sale that is scanned or photocopied by the secondary metals recycler or whose scanned or photocopied license is on file with the secondary metals recycler;

(2) A seller with a copy of a police report showing that such seller's real property was involved in a fire; or

(3) A secondary metals recycler who provides the documentation required in paragraphs 1 and 2 of this subsection received from a contractor or seller.

This code section explains the following:

-There will be a ban on the purchase of burned copper, unless by a permitted incinerator, or if a police report is provided of an accidental fire.

-The sale of copper-aluminum air conditioning coils will be limited to certain licensed contractors, or with a receipt that a HVAC unit has been replaced. Window air conditioners are exempt.

O.C.G.A 10-1-352

No secondary metals recycler shall purchase a burial object unless it is purchased from:

- (1) A funeral director licensed under the provisions of Chapter 18 of Title 43 or by another state who provides a copy of his or her valid license at the time of sale that is scanned or photocopied by the secondary metals recycler or whose scanned or photocopied license is on file with the secondary metals recycler;
- (2) A cemetery owner registered pursuant to Code Section 10-14-4 or with another state who provides a copy of his or her valid registration at the time of sale that is scanned or photocopied by the secondary metals recycler or whose scanned or photocopied registration is on file with the secondary metals recycler;
- (3) A manufacturer or distributor of burial objects who provides a copy of his or her valid business license at the time of sale that is scanned or photocopied by the secondary metals recycler and a letter from the owner or operator of the manufacturing or distributing business expressly recognizing the seller as an employee or authorized agent of the manufacturer or distributor or whose scanned or photocopied business license and letter are on file with the secondary metals recycler;
- (4) A seller with verifiable documentation, such as a receipt from or contract with a licensed funeral director, registered cemetery owner, or manufacturer or distributor of burial objects, evidencing that such person is the rightful owner of the burial object; or
- (5) A secondary metals recycler who provides the documentation required in paragraphs 1 through 4 of this Code section received from a funeral director, cemetery owner, manufacturer or distributor of burial objects, or a seller.

This code section explains the following:

-There will be restrictions and documentation required as to who may be able to sell cemetery brass, bronze and other burial objects.

O.C.G.A 10-1-353

(a) A secondary metals recycler shall maintain a legible record of all purchase transactions. Such record shall include 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 regulated metal property purchased in a purchase transaction. For purposes of this paragraph, the term 'type of regulated metal property' shall include a general physical description, such as wire, tubing, extrusions, or castings;
- (4) A digital photograph or photographs or a digital video image or images of the regulated metal property which shows the regulated metal property in a reasonably clear manner;
- (5) The amount of consideration given in a purchase transaction for the regulated metal property and a copy of the check or voucher or documentation evidencing the electronic funds transfer given as consideration for such purchase transaction;

(6) A signed and sworn affidavit seller stating that such person is the rightful owner of the regulated metal property or has been authorized to sell the regulated metal property being sold;

(7) A signed and sworn affidavit from the seller stating that he or she understands that:

A secondary metals recycler is any person who is engaged, from a fixed location or otherwise, in the business in this state of paying compensation for regulated metal property that has served its original economic purpose, whether or not engaged in the business of performing the manufacturing process by which regulated metal property is converted into raw material products consisting of prepared grades and having an existing or potential economic value. No ferrous metals, nonferrous metals, aluminum property, copper property, or catalytic converters (batteries, aluminum beverage containers, used beverage containers, or similar beverage containers are exempt) may be purchased by a secondary metals recycler unless such secondary metals recycler is a holder of a valid permit issued pursuant to Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated';

(8) A scanned or photocopied copy of a valid personal identification card of the seller and the deliverer, if such person is different from the seller;

(9) A photograph, videotape, or digital recording depicting a recognizable facial image of the seller and the deliverer, if such person is different from the seller, employing technology allowing the image to be retained in electronic storage and in a transferable format;

(10) The distinctive number from, and type of, the personal identification card of seller and the deliverer, if such person is different from the seller; and

(11) The vehicle license tag number or vehicle identification number, state of issue, and the type of vehicle, if available, used to deliver the regulated metal property to the secondary metals recycler. For purposes of this paragraph, the term 'type of vehicle' shall mean an automobile, pickup truck, van, or truck; and

(12) A scanned or photocopied copy of the verifiable documentation, reports, licenses, and registrations, required pursuant to Code Sections 10-1-351 and 10-1-352.

(b) A secondary metals recycler shall maintain or cause to be maintained the information required by subsection (a) of this Code section for not less than two years from the date of the purchase transaction.

(c) When the metal being purchased is a motor vehicle, the seller shall either provide the title to such motor vehicle or fully execute a statement on a form as promulgated by the Department of Revenue, Motor Vehicle Division, designated as MV-1SP, in accordance with Code Section 40-3-36. The secondary metals recycler shall forward the title or MV-1SP form to the Department of Revenue within 72 hours of receipt of the title or form.

(d) It shall be unlawful to make a false statement in executing the affidavit required by either paragraph 6 or 7 of subsection (a) of this Code section, and the making of a false statement shall be punishable as an act of false swearing under Code Section 16-10-71.

This code section explains the following:

-Digital or video image will be required of the bulk load being sold, and the face of the seller.

-Digital Image of seller or deliverer if such person is different from the seller.

-Detailed description of the "Regulated Metal" will be documented on the transaction receipt. (i.e. Copper or Steel)

-In the absence of a vehicle's tag number on the vehicle of the deliver; the vehicle identification number will be documented on the transaction receipt.

-Document is a signed and "sworn affidavit".

-It shall be unlawful to make a false statement in executing the affidavit required when selling a motor vehicle (MV-ISP Cancellation of Title for Scrap Vehicles Form) making of a false statement shall be punishable as an act of false swearing under Code Section 16-10-71 (Addition Felony Charge)

O.C.G.A 10-1-354

During the usual and customary business hours of a secondary metals recycler, a law enforcement officer shall, after properly identifying himself or herself as a law enforcement officer, have the right to inspect:

- (1) Any and all regulated metal property in the possession of the secondary metals recycler; and
- (2) Any and all records required to be maintained under Code Section 10-1-353.

This code section explains the following:

-Clarifies the authority and duties of a sworn peace officer in lieu of his or her duties

O.C.G.A 10-1-355

(a) A secondary metals recycler shall pay only by check, electronic funds transfer, or voucher for regulated metal property.

(b) Any check, electronic funds transfer, or voucher shall be payable only to the person recorded as the seller of the regulated metal property to the secondary metals recycler.

(c) Any voucher shall be provided to the seller at the time of the purchase transaction or mailed to the seller at the address indicated on the personal identification card of the seller presented at the time of such transaction. If the voucher is provided to the seller at the time of the purchase transaction and not mailed to the seller, the secondary metals recycler shall not redeem the voucher for three days from the date of the purchase transaction. The voucher shall include the date of purchase, name of the seller, the amount paid for the regulated metal property, a detailed description of the regulated metal property purchased, information as to whether the voucher was mailed or provided at the time of the purchase transaction, the first date on which the voucher may be redeemed, and the date on which the voucher expires. The voucher may only be redeemed for cash by the person whose name appears on the voucher as the seller or by such person's heirs or legal representative. If a voucher is not redeemed by the person whose name appears on the voucher as the seller or by such person's heirs or legal representative within six months of the date of the transaction, the voucher shall expire and the secondary metals recycler shall not be required to honor the voucher after the expiration date.

(d) A secondary metals recycler shall be prohibited from: (1) redeeming or cashing any check or electronic funds transfer paid to a seller for regulated metal property; and (2) providing or permitting any mechanism on the premises of the secondary metals recycler for the redemption or cashing of any check or electronic funds transfer.

(e) The provisions of this Code section shall not apply to any transaction between business entities.

This code section explains the following:

-Peddlers will not be allowed to be paid immediate cash for all scrap metal, except aluminum cans and batteries.

-Payment must be made to peddlers by check, electronic funds transfer or provided with a cash voucher. Voucher may be redeemed for cash after 3 days.

-No delivery restrictions, however, vouchers can be mailed if the seller wishes

-Business to business transactions will be exempt, but substantial documentation will be required.

-Checks or electronic funds transfer cannot be cashed on-site.

O.C.G.A 10-1-356

(a) Whenever a law enforcement officer has reasonable cause to believe that any item of regulated metal property in the possession of a secondary metals recycler has been stolen, the law enforcement officer may issue a hold notice to the secondary metals recycler. The hold notice shall be in writing, shall be delivered to the secondary metals recycler, shall specifically identify those items of regulated metal property that are believed to have been stolen and that are subject to the notice, and shall inform the secondary metals recycler of the information contained in this Code section. Upon receipt of the notice issued in accordance with this Code section, the secondary metals recycler receiving the notice shall not process or remove the items of regulated metal property identified in the notice, or any portion thereof, from the premises of or place of business of the secondary metals recycler for 15 calendar days after receipt of the notice by the secondary metals recycler, unless sooner released by a law enforcement officer.

(b) No later than the expiration of the 15 day period, a law enforcement officer may issue a second hold notice to the secondary metals recycler, which shall be an extended hold notice. The extended hold notice shall be in writing, shall be delivered to the secondary metals recycler, shall specifically identify those items of regulated metal property that are believed to have been stolen and that are subject to the extended hold notice, and shall inform the secondary metals recycler of the information contained in this Code section. Upon receipt of the extended hold notice issued in accordance with this Code section, the secondary metals recycler receiving the extended hold notice shall not process or remove the items of regulated metal property identified in the notice, or any portion thereof, from the premises of or place of business of the secondary metals recycler for 30 calendar days after receipt of the extended hold notice by the secondary metals recycler, unless sooner released by a law enforcement officer.

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

This code section explains the following:

-How and when to place a hold on regulated metal property

O.C.G.A 10-1-357

(a) If the secondary metals recycler contests the identification or ownership of the regulated metal property, the party other than the secondary metals recycler claiming ownership of any regulated metal property in the possession of a secondary metals recycler may, provided that a timely report of the theft of the regulated metal property was made to the proper authorities, bring an action in the superior or state court of the county in which the secondary metals recycler is located. The petition for such action shall include a description of the means of identification of the regulated metal property utilized by the petitioner to determine ownership of the regulated metal property in the possession of the secondary metals recycler.

(b) When a lawful owner recovers stolen regulated metal property from a secondary metals recycler who has complied with the provisions of this article, and the seller or deliverer is convicted of theft by taking, theft by conversion, a violation of this article, theft by receiving stolen property, or criminal damage to property in the first degree, the court shall order the defendant to make full restitution, including, without limitation, attorneys' fees, court costs, and other expenses to the secondary metals recycler or lawful owner, as appropriate.

*This code section explains the following:
-Covers recovering stolen regulated metal*

O.C.G.A 10-1-358

This article shall not apply to purchases of regulated metal property from:

- (1) Organizations, corporations, or associations registered with the state as charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organizations or associations or from any nonprofit corporations or associations;
- (2) A law enforcement officer acting in an official capacity;
- (3) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the secondary metals recycler;
- (4) Any public official acting under judicial process or authority who has presented proof of such status to the secondary metals recycler;
- (5) A sale on the execution, or by virtue, of any process issued by a court if proof thereof has been presented to the secondary metals recycler; or
- (6) A manufacturing, industrial, or other commercial vendor that generates or sells regulated metal property in the ordinary course of its business, provided that such vendor is not a secondary metals recycler.

*This code section explains the following:
-Exemptions to the law*

O.C.G.A 10-1-359

It shall be unlawful for:

(1) A secondary metals recycler to engage in the purchase or sale of regulated metal property between the hours of 7:00 P.M. and 7:00 A.M.; and

(2) Any person to give a false or personal identification card, vehicle license tag number, or vehicle identification number to a secondary metals recycler as part of a purchase transaction.

-This code section explains the following:

Regulated metal will not be allowed to be purchased between 7:00 P.M. and 7:00 A.M.

-Unlawful to provide a fake ID, false tag (Tag is reregister to the delivery vehicle) or false VIN to a secondary metal recycler (scrap yard) at the time of the sale or purchase of regulated metal

O.C.G.A 10-1-360

It shall be unlawful for any secondary metals recycler to purchase regulated metal property in any amount without being registered pursuant to this Code section. If the secondary metals recycler is a person other than an individual, such person shall register with the sheriff of each county in which the secondary metals recycler maintains a place of business.

If the secondary metals recycler is an individual, he or she shall register with the sheriff of the county in which he or she resides or if such individual is a nonresident of this state, he or she shall register with the sheriff of the county in Georgia where he or she primarily engages or intends to primarily engage in business as a secondary metals recycler. The secondary metals recycler shall declare on a form promulgated by the Secretary of State and provided by the sheriff that such secondary metals recycler is informed of and will comply with the provisions of this article. The forms and information required for such registration shall be promulgated by the Secretary of State. The sheriff shall register the secondary metals recycler and shall keep a record of each registration. Each registration shall be valid for a 12 month period.

(b) The record of each registration shall be entered into an electronic data base accessible statewide. Such data base shall be established through coordination with the Secretary of State and shall be searchable by all law enforcement agencies in this state.

(c) The sheriff shall be authorized to:

(1) Assess and require payment of a reasonable registration fee prior to registering secondary metals recycler, not to exceed \$200.00;

(2) Delegate to personnel in the sheriff's office the registration of secondary metal recyclers and entering into the data base of the records of such registrations; and

(3) Enter into contracts with the governing authority of a county, municipality, or consolidated government for such governing authority to provide for the registration of secondary metals recyclers and the entering into the data base of the records of such registrations by other law enforcement agencies or by staff of the governing authority. Any such contract shall provide for reimbursement to such governing authority for the registrations or entry of the records of such registrations into the data base.

(d) Any secondary metals recycler convicted of violating this Code section shall be guilty of a misdemeanor of a high and aggravated nature.

-This code section explains the following:

-Each secondary metals recycler shall obtain permit from local Sheriff's office of each county they maintain a place of business (If individual, person registers with the sheriff of the county of person's residence; if non-resident, register with sheriff of the county where "primarily engages or intends to primarily engage in business.") NO MORE UNLICENSED OUT OF TOWN CORE BUYERS OR GYSPSIES

-Permit information will be entered into statewide electronic data base accessible by law enforcement and established through coordination with the Secretary of State

-Permit form and information regarding compliance with the law, will be developed by the Secretary of State

-Sheriff is authorized to assess reasonable permit fee no greater than \$200.00

-Permit is good for 12 months

-Unlawful to buy regulated metal property without required permit

-Unlawful to sell regulated metal property to a non-permitted recycler

O.C.G.A 10-1-361

(a) Except as provided for in subsection (d) of Code Section 10-1-360, any person who buys or sells regulated metal property in violation of any provision of this article:

(1) For a first offense, shall be guilty of a misdemeanor;

(2) For a second offense, shall be guilty of a misdemeanor of a high and aggravated nature; and

(3) For a third or subsequent offense, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years.

(b) Any person who buys or sells regulated metal property in violation of any provision of this article shall be liable in a civil action to any person who was the victim of a crime involving such regulated metal property for the full value of the regulated metal property, any repairs and related expenses incurred as a result of such crime, litigation expenses, and reasonable attorneys' fees.

This code section explains the following:

-Penalties

First offense – Misdemeanor

Second offense – Misdemeanor of a high and aggravated nature

Third offence and each future offence – Felony calling for imprisonment between 1-10 years

-Penalty for violation applies to anyone buying or selling

-Anyone who buys or sells in violation shall be civilly liable for full value of metal property, any repair and related expenses, plus court cost and attorney fees

O.C.G.A 10-1-362

(a) As used in this Code section, the term:

(1) 'Crime' means:

(A) Theft by taking in violation of Code Section 16-8-2, theft by conversion in violation of Code Section 16-8-4, or theft by receiving stolen property in violation of Code Section 16-8-7 if the subject of the theft was regulated metal property;

(B) Criminal damage to property in the first degree in violation of paragraph (2) of subsection (a) of Code Section 16-7-22; or

(C) A criminal violation of this article.

(2) 'Proceeds' shall have the same meaning as set forth in Code Section 16-13-49.

(3) 'Property' shall have the same meaning as set forth in Code Section 16-13-49.

(b) The following are declared to be contraband, and no person shall have a property right in them:

(1) Any property which is, directly or indirectly, used or intended for use in any manner to facilitate a crime and any proceeds derived or realized there from; and

(2) Any weapon possessed, used, or available for use in any manner to facilitate a crime.

(c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall be forfeited in accordance with the procedures set forth in Code Section 16-13-49.

This code section explains the following:

******Forfeiture and seizure of materials, vehicles, and tools used in the commission of the metal theft******

O.C.G.A 10-1-363

(a) The General Assembly finds that this article is a matter of state-wide concern. This article supersedes and preempts all rules, regulations, codes, ordinances, and other laws adopted by any county, municipality, consolidated government, or other local governmental agency regarding the sale or purchase of regulated metal property except as allowed in this Code section.

(b) Political subdivisions of this state may enact rules, regulations, codes, ordinances, and other laws:

(1) Affecting the land use and zoning relating to secondary metals recyclers; and

(2) Issuing occupational tax certificates to secondary metals recyclers, imposing occupational taxes, imposing regulatory fees as allowed in Code Section 48-13-9, or revoking their occupational tax certificates."

This code section explains the following:

-Supersede or preemption of local rules: Preemption language is the same as existing law except where political subdivisions enact laws that : Affect land use and zoning related to recyclers impose occupational taxes and regulatory fees dealing with recyclers

SECTION 1-2.

Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, is amended by revising paragraph (9) of subsection (a) of Code Section 16-8-12, relating to penalties for violation of Code Sections 16-8-2 through 16-8-9, as follows:

"(9) Notwithstanding the provisions of paragraph (1) of this subsection, if the property of the theft was regulated metal property, as such terms are term is defined in Code Section 10-1-350, and the sum of the aggregate amount of such property, in its original and undamaged condition, plus any reasonable costs which are or would be incurred in the repair or the attempt to recover any property damaged in the theft or removal of such regulated metal property, exceeds \$500.00, by imprisonment for not less than one nor more than five years, a fine of not more than \$5,000.00, or both."

This code section explains the following:

-Clarifies sentencing guidelines and penalties for subjects convicted of a state charge in connection to a metal theft.

SECTION 1-3

Code Section 40-3-36 of the Official Code of Georgia Annotated, relating to cancellation of certificate of title for scrap, dismantled, or demolished vehicles, salvage certificate of title, administrative enforcement, and removal of license plates, is amended by revising paragraphs (2) and (3) of subsection (a) as follows:

(2) Notwithstanding any other provision of this article to the contrary, if the owner or authorized agent of the owner has not obtained a title in his or her name for the vehicle to be transferred, or has lost the title for the vehicle to be transferred, he or she may sign a statement swearing that, in addition to the foregoing conditions, the vehicle is worth \$850.00 or less and is at least 12 model years old. The statement described in this paragraph may be used only to transfer such a vehicle to a licensed used motor vehicle parts dealer under Code Section 43-47-7 or scrap metal processor under Code Section 43-43-1. The department shall promulgate a form for the statement which shall include, but not be limited to:

(A) A statement that the vehicle shall never be titled again; it must be dismantled or scrapped;

(B) A description of the vehicle including the year, make, model, vehicle identification number, and color;

(C) The name, address, and driver's license number of the owner;

(D) A certification that the owner:

- (i) Never obtained a title to the vehicle in his or her name; or
- (ii) Was issued a title for the vehicle, but the title was lost or stolen;

(E) A certification that the vehicle:

- (i) Is worth \$850.00 or less;
- (ii) Is at least 12 model years old; and
- (iii) Is not subject to any secured interest or lien;

(F) An acknowledgment that the owner realizes this form will be filed with the department and that it is a felony, punishable by imprisonment for not fewer than one nor more than three years or a fine of not less than \$1,000.00 nor more than \$5,000.00, or both, to knowingly falsify any information on this statement;

(G) The owner's signature and the date of the transaction;

(H) The name, address, and National Motor Vehicle Title Information System identification number of the business acquiring the vehicle;

(I) A certification by the business that \$850.00 or less was paid to acquire the vehicle;

(J) A certification that the business has verified by an on-line method determined by the commissioner that the vehicle is not currently subject to any secured interest or lien; provided, however, that such certification shall not be required until such an on-line method has been established and is available; and

(K) The business agent's signature and date along with a printed name and title if the agent is signing on behalf of a corporation.

(3)(A) The secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor shall mail or otherwise deliver the statement required under paragraph (2) of this subsection to the department within 72 hours of the completion of the transaction, requesting that the department cancel the Georgia certificate of title and registration.

(B) Notwithstanding the requirement to mail or otherwise deliver the statement required under paragraph (2) of this subsection to the department, the department shall provide a mechanism for the receipt of the information required to be obtained in the statement by electronic means, at no cost to the secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor, in lieu of the physical delivery of the statement, in which case the secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor shall maintain the original statement for a period of not less than two years.

(C) Within 48 hours of each day's close of business, the secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor who purchases or receives motor vehicles for scrap or for parts shall deliver in a format approved by the department, either by facsimile or by other electronic means to be made available by the department by January 1, 2012, a list of all such vehicles purchased that day for scrap or for parts. That list shall contain the following information:

- (i) The name, address, and contact information for the reporting entity;
- (ii) The vehicle identification numbers of such vehicles;
- (iii) The dates such vehicles were obtained;
- (iv) The names of the individuals or entities from whom the vehicles were obtained, for use by law enforcement personnel and appropriate governmental agencies only;
- (v) A statement of whether the vehicles were, or will be, crushed or disposed of, or offered for sale or other purposes;
- (vi) A statement of whether the vehicle is intended for export out of the United States; and
- (vii) The National Motor Vehicle Title Information System identification number of the business acquiring the vehicle. There shall be no charge to either a secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor associated with providing this information to the department.

(D) For purposes of this subsection, the term 'motor vehicle' shall not include a vehicle which has been crushed or flattened by mechanical means such that it is no longer the motor vehicle as described by the certificate of title, or such that the vehicle identification number is no longer visible or accessible, in which case the purchasing or receiving secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor shall verify that the seller has reported the vehicles in accordance with this subsection. Such verification may be in the form of a certification from the seller or contract between the seller and the purchasing or receiving secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor which clearly identifies the seller by a government issued photograph identification card, or employer identification number, and shall be maintained for a period of not less than two years.

(E) The information obtained by the department in accordance with this subsection shall be reported to the National Motor Vehicle Title Information System, in a format which will satisfy the requirement for reporting this information, in accordance with rules adopted by the United States Department of Justice in 28 C.F.R. 25.56.

(F) The information obtained by the department in accordance with this subsection shall be made available only to law enforcement agencies, and for purposes of canceling certificates of title, and shall otherwise be considered to be confidential business information of the respective reporting entities.

(G) All records required under the provisions of this Code section shall be maintained for a period of two years by the reporting entity and shall include a scanned or photocopied copy of the seller's or seller's representative's driver's license or state issued identification card."

This code section explains the following:

-Purchases of vehicles for scrap or parts remains regulated under Code Section 40-3 -36

There will be changes to the procedure for buying scrap motor vehicles, including online verification that the vehicle is not stolen or having an outstanding security interest.

-Cancellation of certificate of title to include verification via on-line method that vehicle is not subject to any secured interest or lien only after an on-line method is established

-Cancellation of certificate of title to include buyer's National Motor Vehicle Title Information System (NMVTIS) identification number

-Sale of motor vehicle and motor vehicle parts has been revised and updated

SECTION 1-4

Said Code section is further amended by adding a new subsection to read as follows:

"(j) As used in this Code section, the terms:

(1) 'Scrap metal processor' shall have the same meaning as set forth in Code Section 43-43-1.

(2) 'Secondary metals recycler' shall have the same meaning as set forth in Code Section 10-1-350.

(3) 'Used motor vehicle parts dealer' shall have the same meaning as set forth in Code Section 43-47-2."

SECTION 1-5

Code Section 40-3-56 of the Official Code of Georgia Annotated, relating to satisfaction of security interests and liens, is amended by revising paragraph (1) of subsection (a) and revising subsection (c) as follows:

"(a)(1) If any security interest or lien listed on a certificate of title is satisfied, the holder thereof shall, within ten days, execute a release in the form the commissioner prescribes and mail or deliver the release to the commissioner and the owner, provided that as an alternative to a handwritten signature, the commissioner may authorize use of a digital signature as long as appropriate security measures are implemented which assure security and verification of the digital signature process, in accordance with regulations promulgated by the commissioner. For the purposes of the release of a security interest or lien the 'holder' of the lien or security interest is the parent bank or other lending institution and any branch or office of the parent institution may execute such release."

"(c) Except for liens and security interests listed on certificates of title for mobile homes, cranes, or vehicles which weigh more than 10,000 pounds gross vehicle weight, which shall be satisfied only in conformity with subsections (a) and (b) of this Code section, any lien or security interest for a vehicle which is 11 model years old or less shall be considered satisfied and release shall not be required after ten years from the date of issuance of a title on which such lien or security interest is listed. For a vehicle which is 12 model years old and greater, any lien or security interest shall be considered satisfied and a release shall not be required after four years from the date of issuance of a title on which such lien or security interest is listed. None of the provisions of this Code section shall preclude the perfection of a new lien or security agreement, or the perfection of an extension of a lien or security agreement beyond a period of ten years for a vehicle which is 11 model years old or less or beyond a period of more than four years for a vehicle which is 12 model years old or greater, by application for a new certificate of title on which such lien or security agreement is listed. In order to provide for the continuous perfection of a lien or security interest originally entered into for a period of more than ten years for a vehicle which is 11 model years old or less or more than four years for a vehicle which is 12 model years old and greater, other than a mobile home, crane, or vehicle which weighs more than 10,000 pounds gross vehicle weight, an application for a second title on which the lien or security interest is listed must be submitted to the commissioner or the commissioner's duly authorized tag agent before ten years from the date of the original title on which such lien or security interest is listed. Otherwise the lien or security interest shall be perfected as of the date of receipt of the application by the commissioner or the commissioner's duly authorized county tag agent."

This code section explains the following:

-Defines liens and security release procedures for mobile homes, cranes or vehicles more than 10,000 pounds based on age of vehicle – requires lien holders to release liens with the Department of Revenue, and liens on vehicles 12 years old and older will automatically be removed from records if older than 4 year

-Purchases of trailers are now covered under Code Section 40-3-36. Trailers less than 12 years old, or purchased for more than \$1,700 must have a title, otherwise may be purchased with form MV1-SP (see HB 900)

Part II SECTION 2-1

Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, is amended by adding a new Code section to read as follows:

10-1-360.1

(a) Each secondary metals recycler shall provide all of the information required by subsection (a) of Code Section 10-1-353 for each transaction, except for the amount of consideration given in a purchase transaction for the regulated metal property specified in paragraph (5) of subsection (a) of such Code section, to the Georgia Bureau of Investigation.

(b) The Georgia Bureau of Investigation shall establish and maintain a data base of all information required to be provided pursuant to subsection (a) of this Code section. Such data base shall be accessible and searchable by all law enforcement agencies in this state. The Georgia Bureau of Investigation shall promulgate rules and regulations and establish procedures necessary to carry into effect, implement, and enforce the provisions of this Code section. Such rules and regulations shall include, but shall not be limited to, the time, manner, and method of the transmittal of the information by the secondary metals recyclers to the Georgia Bureau of Investigation."

This code section explains the following:

-The GBI will establish a data base (when funded via budget) of all secondary recycler records.

-Secondary recycler records will now also include:

-Clear, undistorted photograph or video images of property

-Copy of check, voucher or documentation of electronic funds transfer

-Signed and sworn affidavit from seller

-Recognizable facial image of seller

-Copy of any required licenses (Ex. Heating and Air contractor for coils) – May be copied or scanned and kept on file.

-Scanned or photocopied seller permit if purchased from secondary metals recycler– May be copied or scanned and kept on file.

-Requirement to file these records with GBI (when funded via budget) which will be placed in database

Part IV SECTION 4-1

(a) Except as provided in subsection (b) of this section, this Act shall become effective on July 1, 2012, and shall apply to all offenses committed on or after such date.

(b) Part II of this Act shall become effective only upon the effective date of a specific appropriation of funds for the purposes of this Act as expressed in a line item making specific reference to such funds in a General Appropriations Act enacted by the General Assembly.

This code section explains the following:

-House Bill 872 shall go into effective July 1, 2012 to include all offenses and enforcement.

-The submitting of secondary metal recycler's records to the GBI will be effective once the appropriate funds are made available to create the database.

****Note****

This document regarding the laws on the purchase and selling of Regulated Metal Property is provided merely as a resource guide to assist Law Enforcement Officers, Secondary Metals Recyclers and the general public in understanding and complying with the legal requirements. This Guide is not offered as legal advice, nor should it be relied upon as a substitute for the advice of one's own legal counsel or reading of the laws.