

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Commerce Committee

BILL: SB 748

INTRODUCER: Senator Crist

SUBJECT: Secondary metals recyclers

DATE: February 19, 2008      REVISED: \_\_\_\_\_

|    | ANALYST   | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|-----------|----------------|-----------|--------------------|
| 1. | Earlywine | Cooper         | CM        | <b>Pre-meeting</b> |
| 2. |           |                | CJ        |                    |
| 3. |           |                | JA        |                    |
| 4. |           |                |           |                    |
| 5. |           |                |           |                    |
| 6. |           |                |           |                    |

**I. Summary:**

This bill addresses the regulation of Secondary Metals Recyclers to:

- Expands the types of transaction records secondary metals recyclers must maintain, to include detailed descriptions of and related personal information about persons from whom metals were acquired;
- Increases penalties for secondary metals recyclers who fail to comply with current and proposed requirements related to metal recycling;
- Increases penalties for persons giving false verification of ownership or false or altered identification in metal recycling transactions; and
- Prohibits the sale or offer to sell and the purchase or attempt to purchase a stainless steel beer keg without providing written documentation that the seller owns the stainless steel beer keg or is an employee, agent, or other person authorized to sell the beer keg on behalf of the owner.

In addition, it requires the Department of Law Enforcement (FDLE) to approve the form for purchase transactions and requires the Department of Revenue (DOR) to release information relating to secondary metals recyclers to law enforcement officials.

This bill amends sections 538.18, 538.19, 538.23, 538.25, and 538.26 of the Florida Statutes.

## II. Present Situation:

Secondary metals recyclers (also known as scrap-metal dealers) purchase used metals typically salvaged from building demolition, remodeling, etc., and refine those metals (or ship to another country for refinement) into raw materials which can be used to make new products. Secondary metals recyclers are currently regulated under ch. 538, Part II, F.S.

Secondary metals recyclers are required to register with the Department of Revenue and pay a fee equal to the federal and state costs for processing required fingerprints.<sup>1</sup> Additionally, a secondary metals recycler is required to pay a fee of \$6 per location at the time of registration and a \$6 annual renewal fee per location.<sup>2</sup> An applicant for a secondary metals recycler registration must be a natural person who has reached the age of 18 years or a corporation organized or qualified to do business in the state.<sup>3</sup>

A secondary metals recycler must maintain a legible record of all purchase transactions to which such secondary metals recycler is a party.<sup>4</sup> The following information must be maintained for each purchase transaction:

- The name and address of the secondary metals recycler;
- The name, initials, or other identification of the individual entering the information on the ticket;
- The date and time of the transaction;
- The weight, quantity, or volume, and a description of the type of regulated metals property purchased in a purchase transaction;
- The amount of consideration given in a purchase transaction for the regulated metals property;
- A signed statement from the person delivering the regulated metals property stating that she or he is the rightful owner of, or is entitled to sell, the regulated metals property being sold;
- The distinctive number from the personal identification card of the person delivering the regulated metals property to the secondary metals recycler; and
- A photograph, videotape, or similar likeness of the person receiving consideration in which such person's facial features are clearly visible.<sup>5</sup>

A secondary metals recycler is required to maintain the required information for at least 5 years from the date of the purchase transaction.<sup>6</sup>

It is unlawful for a secondary metals recycler to do or allow any of the following acts:

- Purchase regulated metals property between the hours of 9 p.m. and 6 a.m.;

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<sup>1</sup> Section 538.25, F.S.

<sup>2</sup> Section 538.25, F.S.

<sup>3</sup> Section 538.25, F.S.

<sup>4</sup> Section 538.19, F.S.

<sup>5</sup> Section 538.19, F.S.

<sup>6</sup> Section 538.19, F.S.

- Fail to pay any sales tax owed to the department or fail to have a sales tax registration number;
- Purchase regulated metals property at a location other than the place of business set forth on the registration;
- Purchase regulated metals property from any seller who presents such property for sale at the registered location of the secondary metals recycler when such property was not transported in a motor vehicle unless the seller can prove ownership of the regulated metals property; or
- Purchase regulated metals property in return for money from a trailer, a vehicle, or any location other than a fixed location or from any person who is required to prove ownership. However, regulated metals may be purchased from a non-fixed location, or from such person, with any negotiable or nonnegotiable instrument, including a check or draft or any other type of instrument purchased with money and sold for the purpose of making payments or transfers to others.<sup>7</sup>

Currently, Florida law provides that a secondary metals recycler is guilty of a first degree misdemeanor if convicted for knowingly and intentionally:

- Failing to allow a law enforcement official access to inspect records of transactions;
- Failing to allow a law enforcement official access to inspect regulated metals in the possession of the secondary metals recycler;
- Failing to gather and maintain records of each transaction;
- Failing, pursuant to a request from law enforcement, to hold regulated metals for a minimum period of time; or
- Purchasing regulated metals from a seller where the metals were not transported in a motor vehicle.<sup>8</sup>

Recently, there has been an increase of reports of metal theft (especially copper) with the idea that thieves take the stolen metal to a secondary metals recycler and sell the metal for cash. In response, many jurisdictions throughout the U.S. have enacted laws to thwart this activity.

### III. Effect of Proposed Changes:

**Section 1** amends s. 538.18, F.S., to change the definition of the term “personal identification card” to mean “any government-issued photographic identification card.” Current law limits the definition to a driver’s license, military ID card, or work authorization issued by the U.S. Bureau of Citizenship and Immigration.

Additionally, the term “purchase transaction” is amended to include transactions that have a value of \$10 or less.

**Section 2** amends s. 538.19, F.S., to expand the types of transaction records secondary metals recyclers must maintain. Recyclers will also be required to maintain, on a form approved by FDLE, a description of the person from whom the goods were acquired, including:

<sup>7</sup> Section 538.26, F.S.

<sup>8</sup> Section 538.23, F.S.

- The full name, current residential address, workplace, and home and work phone numbers;
- The height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks;
- The right thumbprint, free of smudges and smears;
- A vehicle description, which must include the make, model, and tag number of the vehicle and trailer of the person selling the regulated metals property; and
- Any other information required by the form approved by the Department of Law Enforcement.

In addition, secondary metals recyclers must maintain a photograph, videotape, or digital image of the regulated metals being sold.

**Section 3** amends s. 538.23, F.S., to increase penalties for secondary metals recyclers who fail to comply with current requirements and new requirements proposed in this bill. Specifically, this provision establishes third degree felony for a third or subsequent violation of current ss. 538.19 (record requirements), 538.20 (access to records by law enforcement), 538.21 (compliance with a hold notice issued by law enforcement), and 538.26(4), F.S. (prohibited purchase practices). This penalty is also imposed for violations of proposed ss. 538.26(6) and (7), F.S., relating to purchase and resale of beer kegs without proper documentation of ownership.

Additionally, this section increases penalties for persons giving false verification of ownership or false or altered identification in metal recycling transactions. The penalty is increased from a first degree misdemeanor to a third degree felony for transactions of less than \$300. The penalty is increased from a third to a second degree felony for transactions of \$300 or more. This section also provides that any person who knowingly gives false verification of ownership or who gives a false or altered identification and who receives money or other consideration from a secondary metals recycler in return for regulated metals property commits a third degree felony if the value of the money or other consideration is less than \$300.

**Section 4** amends s. 538.25, F.S., to require the Department of Revenue to release to a law enforcement official the name and address of any secondary metal recycler registered to do business within the official's jurisdiction.

**Section 5** amends s. 538.26, F.S., to prohibit the sale or offer to sell and the purchase or attempt to purchase a stainless steel beer keg without providing written documentation that the seller owns the stainless steel beer keg or is an employee, agent, or other person authorized to sell the beer keg on behalf of the owner.

**Section 6** provides an effective state of October 1, 2008.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

There may be an indeterminate economic impact on secondary metals recyclers due to the bill's requirement to gather and maintain additional information about sellers of regulated metals.

**C. Government Sector Impact:**

FDLE is required to approve a form used by Secondary Metals Recyclers to record purchase transactions.

New penalties for Secondary Metal Recyclers and increased penalties for persons giving false verification of ownership or false or altered identification in metal recycling transactions may result in an insignificant prison bed impact on the Department of Corrections.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.



## **VIII. Summary of Amendments:**

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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