

§ 10-1-350. Definitions

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 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 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.

(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.

HISTORY: Code 1981, § 10-1-350, enacted by Ga. L. 1992, p. 2452, § 1; Ga. L. 2002, p. 415, § 10; Ga. L. 2005, p. 334, § 4-1/HB 501; Ga. L. 2007, p. 650, § 1/SB 203; Ga. L. 2009, p. 731, § 1/SB 82; Ga. L. 2012, p. 112, § 1-1/HB 872.

§ 10-1-351. Verifiable documentation required

(a) No secondary metals 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.

HISTORY: Code 1981, § 10-1-351, enacted by Ga. L. 2012, p. 112, § 1-1/HB 872.

§ 10-1-352. Requirements for purchase of burial objects

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.

HISTORY: Code 1981, § 10-1-352, enacted by Ga. L. 2012, p. 112, § 1-1/HB 872.

§ 10-1-352.1. Redesignated

§ 10-1-353. Record of transaction; false statements in required affidavits transactions; penalty for making false statement in execution of affidavit

(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 from the 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 the seller and the deliverer, if such person is different from the seller;

(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 in accordance with Code Section 40-3-36. The secondary metals recycler shall forward the title or 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.

HISTORY: Code 1981, § 10-1-351, enacted by Ga. L. 1992, p. 2452, § 1; Ga. L. 2009, p. 731, § 2/SB 82; Code 1981, § 10-1-353, as redesignated by Ga. L. 2012, p. 112, § 1-1/HB 872

§ 10-1-354. Inspections by law enforcement officers

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.

HISTORY: Code 1981, § 10-1-352, enacted by Ga. L. 1992, p. 2452, § 1; Code 1981, § 10-1-354, as redesignated by Ga. L. 2012, p. 112, § 1-1/HB 872.

§ 10-1-355. Conditions and limitations on payments for regulated metal property; exception for transaction between business entities

(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.

HISTORY: Code 1981, § 10-1-352.1, enacted by Ga. L. 2009, p. 731, § 3/SB 82; Code 1981, § 10-1-355, as redesignated by Ga. L. 2012, p. 112, § 1-1/HB 872

§ 10-1-356. Hold on regulated metal property believed to be stolen; notice; release of hold

(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.

HISTORY: Code 1981, § 10-1-353, enacted by Ga. L. 1992, p. 2452, § 1; Code 1981, § 10-1-356, as redesignated by Ga. L. 2012, p. 112, § 1-1/HB 872

§ 10-1-357. Contesting identification or ownership of regulated metal property; action to recover property

(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.

HISTORY: Code 1981, § 10-1-354, enacted by Ga. L. 1992, p. 2452, § 1; Ga. L. 2007, p. 650, § 1.1/SB 203; Code 1981, § 10-1-357, as redesignated by Ga. L. 2012, p. 112, § 1-1/HB 872

§ 10-1-358. Purchases of regulated metal property exempted from application of article

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.

HISTORY: Code 1981, § 10-1-355, enacted by Ga. L. 1992, p. 2452, § 1; Code 1981, § 10-1-358, as redesignated by Ga. L. 2012, p. 112, § 1-1/HB 872

§ 10-1-359. Prohibited acts

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 altered personal identification card, vehicle license tag

number, or vehicle identification number to a secondary metals recycler as part of a purchase transaction.

HISTORY: Code 1981, § 10-1-356, enacted by Ga. L. 1992, p. 2452, § 1; Code 1981, § 10-1-359, as redesignated by Ga. L. 2012, p. 112, § 1-1/HB 872

§ 10-1-359.1. Registration of secondary metals recycler; electronic database; authority of sheriff; penalty for violation

(a) 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 the secondary metals recycler, not to exceed \$200.00;

(2) Delegate to personnel in the sheriff's office the registration of secondary metals 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.

HISTORY: Code 1981, § 10-1-359.1, enacted by Ga. L. 2012, p. 112, § 1-1/HB 872

§ 10-1-359.2. Penalties for violations

(a) Except as provided for in subsection (d) of Code Section 10-1-359.1, 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.

HISTORY: Code 1981, § 10-1-357, enacted by Ga. L. 1992, p. 2452, § 1; Ga. L. 2007, p. 650, § 2/SB 203; Code 1981, § 10-1-359.2, as redesignated by Ga. L. 2012, p. 112, § 1-1/HB 872

§ 10-1-359.3. Items declared contraband; forfeiture of contraband

(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 therefrom; 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.

HISTORY: Code 1981, § 10-1-359.3, enacted by Ga. L. 2012, p. 112, § 1-1/HB 872

§ 10-1-359.4. Comprehensive nature of this article; authority of localities

(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.

HISTORY: Code 1981, § 10-1-358, enacted by Ga. L. 2007, p. 650, § 3/SB 203; Code 1981, § 10-1-359.4, as redesignated by Ga. L. 2012, p. 112, § 1-1/HB 872

§ 10-1-359.5. (For effective date, see note) Required information from secondary metals recyclers; role of Georgia Bureau of Investigation

(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.

HISTORY: Code 1981, § 10-1-359.5, enacted by Ga. L. 2012, p. 112, § 2-1/HB 872.