

Section 13A-8-30

Definitions. THIS SECTION WAS ASSIGNED BY THE CODE COMMISSIONER. IT HAS NOT BEEN CODIFIED BY THE LEGISLATURE.

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

- (1) FERROUS METALS. Any metals containing significant quantities of iron or steel.
- (2) LAW ENFORCEMENT OFFICER. A duly constituted and certified peace officer of the State of Alabama or of any county or municipality within the state.
- (3) METAL PROPERTY. Metals as defined in this section as either ferrous or nonferrous metals.
- (4) NONFERROUS METALS. Metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum other than aluminum cans, bronze, lead, zinc, nickel, stainless steel, and alloys thereof, including stainless steel beer kegs.
- (5) PERSON. An individual, partnership, corporation, joint venture, trust, association, or any other legal entity.
- (6) PERSONAL IDENTIFICATION CARD. A driver's license or identification card issued by the Department of Public Safety or a similar card issued by another state, a military identification card, a passport, or an appropriate work authorization issued by the U.S. Citizenship and Immigration Services of the Department of Homeland Security.
- (7) PURCHASE TRANSACTION. A transaction in which a secondary metals recycler gives consideration in exchange for regulated metal property.
- (8) SECONDARY METALS RECYCLER. Any person who is engaged, from a fixed location or otherwise, in the business of paying compensation for ferrous or nonferrous metals that have served their original economic purpose, whether or not engaged in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.

(Act 2007-451, p. 930, §1.)

Section 13A-8-31

Record of purchases. THIS SECTION WAS ASSIGNED BY THE CODE COMMISSIONER. IT HAS NOT BEEN CODIFIED BY THE LEGISLATURE.

(a) A secondary metals recycler shall maintain a legible record of all purchase transactions to which the secondary metals recycler is a party. The record shall include all of 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 metal property purchased in a purchase transaction. For purposes of this subdivision, the term "type of metal property" shall include a general physical description, such as wire, tubing, extrusions, or casting.

(4) The amount of consideration given in a purchase transaction for the metal property.

(5) A signed statement from the person receiving consideration in the purchase transaction stating that he or she is the rightful owner of the metal property or is entitled to sell the metal property being sold.

(6) The name and address of the person delivering the metal property to the secondary metals recycler.

(7) The distinctive number from, and type of, the personal identification card of the person delivering the metal property to the secondary metals recycler.

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

(b)(1) For three years following September 1, 2007, the secondary metal recycler shall not enter into any cash transactions in excess of one hundred dollars (\$100) for copper or in excess of one thousand dollars (\$1,000) for all other metals in payment for the purchase of the metal property. Payment shall be made by check issued to the seller of the metal. The check shall be payable to the name and address of the seller of the metal and mailed to the recorded address of the seller or picked up in person by the seller. At the end of three years, this subdivision shall be repealed and subdivision (2) shall apply.

(2) Commencing three years and one day following September 1, 2007, the secondary metal recycler shall not enter into any cash transactions in excess of one thousand dollars (\$1,000) for any metals in payment for the purchase of the metal property. Payment shall be made by check issued to the seller of the metal. The check shall be payable to the name and address of the seller or picked up in person by the seller.

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

(Act 2007-451, p. 930, §2.)

Section 13A-8-32

Inspection of records. THIS SECTION WAS ASSIGNED BY THE CODE COMMISSIONER. IT HAS NOT BEEN CODIFIED BY THE LEGISLATURE.

During the usual and customary business hours of a secondary metals recycler, a law enforcement officer, after properly identifying himself or herself as a law enforcement officer and describing the object or objects for which he or she is inspecting, shall have the right to inspect:

- (1) All purchased metal property in the possession of the secondary metals recycler.
- (2) All records required to be maintained under Section 13A-8-31.

(Act 2007-451, p. 930, §3.)

Section 13A-8-33

Law enforcement officers authorized to place hold on certain sales of metals. THIS SECTION WAS ASSIGNED BY THE CODE COMMISSIONER. IT HAS NOT BEEN CODIFIED BY THE LEGISLATURE.

(a)(1) Whenever a law enforcement officer has reasonable cause to believe that any item of metal property in the possession of a secondary metals recycler has been stolen, the law enforcement officer, who has an affidavit from the alleged rightful owner of the property identifying the property with specificity, including any identifying markings, 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 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 section.

(2) Upon receipt of the notice, the secondary metals recycler may not process or remove the items of metal property identified in the notice, or any portion thereof, from the 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)(1) No later than the expiration of the 15-day period, a law enforcement officer after receiving additional substantive evidence beyond the initial affidavit 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 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 section.

(2) Upon receipt of the extended hold notice, the secondary metals recycler may not process or remove the items of metal property identified in the notice, or any portion thereof, from the 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 section, at the expiration of the extended hold period, the hold is automatically released and the secondary metals recycler may dispose of the metal property unless other disposition has been ordered by a court of competent jurisdiction.

(Act 2007-451, p. 930, §4.)

Section 13A-8-34

Contesting identification or ownership of metal property. THIS SECTION WAS ASSIGNED BY THE CODE COMMISSIONER. IT HAS NOT BEEN CODIFIED BY THE LEGISLATURE.

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

(b) When a lawful owner recovers stolen metal property from a secondary metals recycler who has complied with this article, and the person who sold the metal property to the secondary metals recycler is convicted of a violation of this article, or theft by receiving stolen property, 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.

(Act 2007-451, p. 930, §5.)

Section 13A-8-35

Exceptions. THIS SECTION WAS ASSIGNED BY THE CODE COMMISSIONER. IT HAS NOT BEEN CODIFIED BY THE LEGISLATURE.

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

- (1) A law enforcement officer acting in an official capacity.
- (2) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the secondary metals recycler.
- (3) Any public official acting under a court order who has presented proof of such status to the secondary metals recycler.
- (4) 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.
- (5) A manufacturing, industrial, or other commercial vendor that generates or sells regulated metal property in the ordinary course of its business.

(Act 2007-451, p. 930, §6.)

Section 13A-8-36

False statement of ownership, identification, etc. THIS SECTION WAS ASSIGNED BY THE CODE COMMISSIONER. IT HAS NOT BEEN CODIFIED BY THE LEGISLATURE.

It shall be unlawful for any person to give a false statement of ownership or to give a false or altered identification or vehicle tag number and receive money or other consideration from a secondary metals recycler in return for metal property.

(Act 2007-451, p. 930, §7.)

Section 13A-8-37

Violations. THIS SECTION WAS ASSIGNED BY THE CODE COMMISSIONER. IT HAS NOT BEEN CODIFIED BY THE LEGISLATURE.

- (a) Any person selling metal property to a secondary metals recycler in violation of this article shall be guilty of a Class A misdemeanor unless the transaction or transactions in violation of this article are in an aggregate amount which exceeds two hundred fifty dollars (\$250), in which case the person shall be guilty of a Class C felony.
- (b) Any secondary metals recycler who knowingly and intentionally engages in any practice which constitutes a violation of this article shall be guilty of a misdemeanor,

provided that if a secondary metals recycler knowingly and intentionally engages in a pattern of practices which constitutes a violation of this article and the transactions included in this pattern are in an aggregate amount which exceeds five hundred dollars (\$500), the secondary metals recycler shall be guilty of a Class C felony.

(Act 2007-451, p. 930, §8.)

Section 13A-8-38

Construction. THIS SECTION WAS ASSIGNED BY THE CODE COMMISSIONER. IT HAS NOT BEEN CODIFIED BY THE LEGISLATURE.

This article shall not be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of this article is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

(Act 2007-451, p. 930, §9.)

Section 13A-8-39

Application. THIS SECTION WAS ASSIGNED BY THE CODE COMMISSIONER. IT HAS NOT BEEN CODIFIED BY THE LEGISLATURE.

This article shall apply to all businesses regulated under this article without regard to the location within the State of Alabama and shall take precedence over any and all local ordinances to the contrary.

(Act 2007-451, p. 930, §10.)