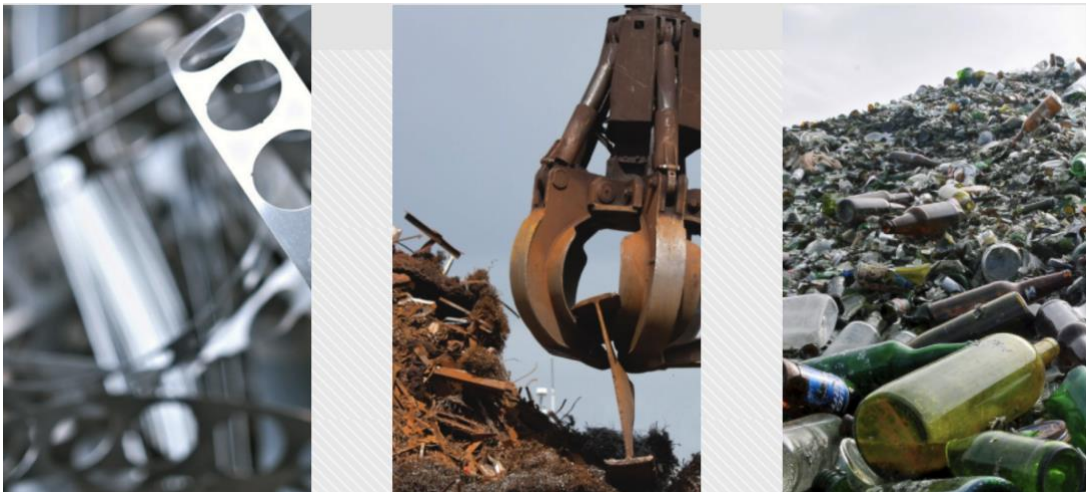


Georgia Secondary Metals Recyclers Compliance Guide:

A Guide for Secondary Metals Recyclers, Law Enforcement, Prosecutors, Utilities, and others to better understand the proper and lawful purchase of Regulated Metal Property in the State of Georgia – effective **July 1, 2023**.



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This Compliance Guide is designed as a resource to help Secondary Metals Recyclers understand and comply with the Regulated Metals Recycling Law but it is not offered as legal advice nor meant to serve a substitute for the advice of legal counsel. Secondary Metal Recyclers are encouraged to read the Regulated Metals Recycling Law or consult with legal counsel regarding the law if they have any questions.

APPLICABILITY

Georgia's Regulated Metals Recycling Law regulates anyone meeting the definition of a Secondary Metals Recycler which is anyone engaged in Georgia in the business of paying compensation for the purchase of Regulated Metal Property whether or not the person operates from a fixed location or otherwise and whether or not the person is engaged in converting such property into raw material products. **This includes any person located in a residence buying metals or buying metals from a truck parked on public or private property.**

Regulated Metal Property is any item composed primarily of ferrous or nonferrous metals but excludes aluminum beverage containers and used beverage containers (or similar items). Ferrous metals are those that contain significant quantities of iron or steel. Nonferrous metals are those metals that do not contain significant quantities of iron or steel, and include stainless steel items, copper, brass, aluminum, bronze, lead, zinc, beer kegs, catalytic converters, nickel and any of their respective alloys.

The Regulated Metals Recycling Law exempts from its coverage purchases of Regulated Metal Property from certain sellers including purchases from manufacturing, industrial, or other commercial vendors (but excluding other Secondary Metals Recyclers) that generate **AND** sell Regulated Metal Property in the ordinary course of their business (the "business-to-business exception"), non-profit sellers, law enforcement and public officials acting in their respective capacities and certain court appointed officials. **However, transactions regarding used, detached catalytic converters are EXCLUDED from the exemptions in 10-1-358 relating to business to business exceptions.** The Regulated Metals Recycling Law impacts almost every aspect of a Secondary Metal Recycler's business operations including recordkeeping, the form of payment for purchase transactions, hours of operation, types of Regulated Metal Property it may purchase and from whom it may purchase the metals.

Since 2012 the Regulated Metals Recycling Law has regulated how the metal recycling industry conducts business. Recyclers must register with the county sheriff. Their business hours are limited. They must obtain and retain in their records additional information regarding purchase transactions. Purchases of certain types of Regulated Metal Property (air conditioning coils, burned copper wire, catalytic converters and burial memorials) are restricted to certain sellers with proper licenses or documentation. Recyclers are required to report purchase transaction information daily to the Georgia Bureau of Investigation database. Finally, recyclers are subject to more stringent penalties for failure to comply with the law.

House Bill 461, which became law July 1, 2015, provides for several updates to the metal theft laws that passed in 2012. Changes to the law include tighter regulations on the sale and purchase of scrap catalytic converters by allowing certain entities, such as auto dealers, auto parts dealers, etc. to sell catalytic converters with the proper paperwork. The exemption of scrap batteries as a regulated metal property has been removed, which means that scrap batteries shall be treated the same as other regulated metals. The law clarifies any confusion about the purchase of end of life vehicles and the appropriate code section that regulates

their purchase relative to regulated metal property by secondary metal recyclers. It clarifies the language regarding a signed statement required by the seller of secondary metals to a recycler to eliminate any confusion over the need of a notarized document. It requires secondary metals recyclers to report the name and date of birth and specify the make, model, and color of the delivering vehicle to the GBI database and allows a utility and telecom company security access to the GBI database as long as their security is post certified. Finally, new changes to the law state that information required by the GBI from regulated secondary metals recyclers it to be filed electronically. This information provided to the GBI is to be considered a trade secret and exempt from disclosure, however, it does not exempt the secondary metals recyclers from providing the required information to the GBI. It also eliminates the requirement that the data is to be used only for the investigation of crimes specifically regarding theft of regulated metal property.

Senate Bill 60, which goes into effect July 1, 2023 (except cash payment, which goes into effect January 1, 2024), provides for several updates to the current metal theft laws. The new law will strengthen the metal theft law to make it a felony for anyone who unlawfully obtains regulated metal, including catalytic converters, that results in property damage exceeding \$1,500.00.

Each unlawfully possessed or obtained used, detached catalytic converter will be considered a separate offense. In addition, stolen used, detached catalytic converters shall be considered contraband and be subject to forfeiture and any vehicle used in the transportation of any unlawfully obtained catalytic converter will have civil forfeiture proceedings stayed unless otherwise agreed to by the owner and until conviction. The advertising, solicitation or purchase of used, detached catalytic converters will be prohibited unless you are a registered Secondary Metals Recycler. It makes it unlawful to possess, sell, or transport used, detached catalytic converters unless the person is authorized under Georgia law and has the proper licenses, registration, or other documentation. (authorized entities under Georgia law are limited to licensed new and used motor vehicle dealers, used motor vehicle parts dealers, vehicle repair shops, manufacturer or distributors of new catalytic converters, or individuals with verifiable ownership documentation such as a receipt or work order or certificate of title of the vehicle, and registered secondary metals recyclers). This includes verifiable documentation like a valid business license for applicable sellers, receipt or work order, or copy of a certificate of title or registration showing ownership of the vehicle in which the catalytic converter was replaced. Each Secondary Metals Recycler shall submit a record of receipt of purchase for any used, detached catalytic converter to the Georgia Bureau of Investigation, including the name and address of the seller, date, time and place of the transaction, and the quantity purchased.

The terms copper wire, used communications copper, and used utility wire are now defined in the Secondary Metals Recycler code section alongside the term registered agent so as to strengthen secondary metals recyclers registration in Georgia.

In addition, SB 60 requires SMR's to electronically submit to the Georgia Bureau of Investigation a record of the receipt of each purchase of a used, detached catalytic

converter, or any nonferrous metal parts of a catalytic converter, from an industrial account or a secondary metals recycler. Each report shall include:

- (A) The name and address of the seller;
- (B) The date, time, and place of the transaction; and
- (C) The number of used, detached catalytic converters or pounds of catalyst metal purchased."

Cash payment will be allowed under this law beginning on January 1, 2024 until December 31, 2026, allowing for cash transactions up to \$100.00 twice daily per seller, per day, per registered Secondary Metals Recycler location except for used, detached catalytic converters or coils, used utility wire, used communications copper, copper wire, or a battery.

Secondary metals recyclers are now required by the sheriff to pay a \$200.00 fee for a new or renewed registration beginning January 1, 2024 and annually by January 1 of each year. In addition, a current and valid business license in the county associated with the address on the registration form will be required if applicable. The registered agent of a new secondary metals recycler must submit to a criminal background check and fingerprinting for a cost of no more than \$75.00 for all new registrations. This does not apply to renewals. The sheriff may deny registration if the registration has been revoked in another Georgia county, information provided is false, or the person or registered agent has been convicted of a felony offense under the metal theft law.

DEFINITIONS **(O.C.G.A. § 10-1-350)**

Statutory Definitions: The following are the defined terms found in the Regulated Metals Recycling Law:

Aluminum Property means aluminum forms designed to shape concrete.

Business License means a business license, an occupational tax certificate, and other document required by a county or municipal corporation and issued by the appropriate agency of such to engage in a profession or business.

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

Coil means any copper, aluminum, or aluminum-copper condensing coil or evaporation coil. The term does not include coil from a window air-conditioning system, if contained within the system itself, or coil from an automobile condenser.

Copper Property means any copper wire, copper tubing, copper pipe, or any item composed completely of copper.

Copper Wire means any wires, cable, bus bars, or waveguides containing any portion of copper, whether or not coated with insulation.

Deliverer means any individual who takes or transports the Regulated Metal Property to the Secondary Metals Recycler.

Ferrous Metals means any metals containing significant quantities of iron or steel.

Law Enforcement Officer means any duly constituted peace officer of the State or of any county, municipality or political subdivision of the State.

Nonferrous Metals means any metals not containing significant quantities of iron or steel and includes stainless steel beer kegs, other stainless steel items, copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys

Person means an individual, partnership, corporation, joint venture, trust, association or any other legal entity.

Personal Identification Card means any current and unexpired (i) driver's license or identification card issued by the Georgia Department of Driver Services or any similar card issued by another state, (ii) a military identification card or (iii) a current work authorization issued by the federal government, which contains the individuals name, address, and photograph. **No other forms of identification are acceptable.**

Purchase Transaction means any transaction in which a Secondary Metals Recycler pays money or gives something of value in exchange for Regulated Metal Property.

Registered Agent means an individual who has been listed on a Secondary Metals Recycler registration form at a Georgia sheriff's office as the affiant and completes and executes the registration form in accordance with Code Section 10-1-359.1.

Regulated Metal Property means any item primarily composed of Ferrous Metals or Nonferrous Metals; and includes Aluminum Property, Copper Property, and catalytic converters, but shall not include aluminum beverage containers and used beverage containers (or similar items).

Secondary Metals Recycler means any Person who is engaged in this state, whether from a fixed location or otherwise, in the business of paying compensation for (buying) Regulated Metal Property, whether or not engaged in the business of performing the manufacturing process of converting the Regulated Metal Property into raw material products.

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.

Used communications copper means utility-grade copper that is commonly used by a lawful provider of telecommunications services for providing telecommunications services, including, without limitation, utility-grade wires or cables, bus bars, and waveguides.

Used utility wire means any wire or cable containing aluminum or copper, or any ferrous metals or other nonferrous metals, that is commonly used by a utility that provides electric or telecommunications service.

Other Definitions: The following are additional defined terms used in this Compliance Guide:

Burned Copper Wire means any copper wire that appears to have been exposed to heat, charred, or burned in order to remove insulation surrounding it.

Licensed Burial Object Manufacturer/Distributor means a Person that has a current unexpired business license evidencing that it is a manufacturer or distributor of Burial Objects.

Licensed Cemetery Owner means a cemetery owner registered under Code Section 10-14-4 (“Registration of Dealers and Cemeteries; Perpetual Care Cemeteries Trust Funds; Non-perpetual Care Cemeteries; Preneed Escrow Accounts”) of the O.C.G.A. or under the law of another state.

Licensed Contractor means a contractor licensed pursuant to Chapter 14 (“Electrical Contractors, Plumbers, Conditioned Air Contractors, Low-Voltage Contractors, and Utility Contractors”) of Title 43 of the O.C.G.A.

Licensed Funeral Director means a funeral director licensed under the provisions of Chapter 18 (“Funeral Directors and Establishments, Embalmers, and Crematories”) of Title 43 or under the law of another state.

Title means the Certificate of Title issued by the State of Georgia or any other State which evidences Seller’s ownership and title to the subject Vehicle or Trailer.

Title Cancellation Certificate means the Form MV-1SP, “*Cancellation of Certificate of Title for Scrap Vehicles*”, that is required to be completed and signed by the Seller and the Secondary Metals Recycler and filed by the Secondary Metals Recycler with the Motor Vehicle Division of the Department of Revenue. When purchasing certain vehicles or trailers without a title in accordance with O.C.G.A. §40-3-36.

Used, Detached Catalytic Converter means motor vehicle exhaust system parts that are used for controlling the exhaust emissions from motor vehicles and that contains a catalyst metal, but shall not include a catalytic converter that has been tested, certified, and labeled for reuse, in accordance with applicable federal Clean Air Act regulations, as may from time to time be amended. (O.C.G.A. §10-1-351(d))

REGISTRATION OF SECONDARY METALS RECYCLERS **(O.C.G.A. §10-1-359.1)**

Registration Requirements: The 2012 Amendments impose registration requirements upon all Secondary Metals Recyclers (individuals and entities) that pay compensation for Regulated Metal Property. Failure to properly register may result in criminal penalties.

Individuals (without a place of business):

(1) **Georgia Resident:** Secondary Metals Recyclers who are individual residents of Georgia must register with the Sheriff in the Georgia County in which the individual resides.

(2) **Non-Georgia Resident:** Secondary Metals Recyclers who are individuals not residing in Georgia must register with the Sheriff of the Georgia County in which the individual primarily engages or intends to primarily engage in business as a Secondary Metals Recycler

Entities (with a place of business):

Secondary Metals Recyclers must register with the Sheriff of each County in which the Secondary Metals Recycler maintains a place of business.

Current and Valid Business License (where applicable)

A current and valid business license in the county or municipality associated with the address on the registration form must be provided if applicable in that jurisdiction.

Are Business Licenses Required in my City or County?

Georgia Code, O.C.G.A. § 10-1-350, defines a “Business license” as a business license, an occupational tax certificate, and other document required by a county or municipal corporation and issued by the appropriate agency of such county or municipal corporation to engage in a profession or business.

According to the Georgia Secretary of State’s office, business licenses, which are also referred to as occupational tax certificates, may be obtained from the county and/or city in which the primary place of business would be located. Therefore, it is recommended that you contact your local business licensing authority to confirm whether a business license is required in your city or county.

NOTE: Identification and proper paperwork should be available and documented in the Secondary Metals Recycler’s records to establish and support these exemptions.

Registration Form: Since 2012, the Secretary of State of Georgia has provided a Secondary Metals Recycler registration form (“**Registration Forms**”) and the Registration Forms are available from the Sheriff of each County. The Registration form requires a Secondary Metals Recycler to declare that the Secondary Metals Recycler is informed of and will comply with the provisions of the Regulatory Metals Recycling Law. The Sheriff, or an agent or representative of the Sheriff, of each County is required to (a) register the Secondary Metals Recycler, (b) maintain a record of each registration and (c) enter the registration into a searchable database coordinated by the Secretary of State. **Secondary Metals Recyclers must now provide their customer identification number from the current data base contractor maintained by the Georgia Bureau of**

Investigation on the registration form. The applicant must now submit a signed and sworn statement that they have not had their registration or business license revoked during the previous year and that the registered agent has not been convicted of a metal theft offense in the previous year.

Registration Fee: The Sheriff shall assess the Secondary Metals Recycler a registration fee of \$200.00.

Term of Registration: A Secondary Metals Recycler’s registration is valid for a 12-month period to be renewed yearly by January 1 of that year beginning on January 1, 2024. The registered agent of a new Secondary Metals Recycler must submit to a background check and fingerprinting in an amount not to exceed \$75.00 for all new registrations. This does not apply to renewed registrations.

Denial of a New Registration: The sheriff shall be authorized to deny a new registration or registration renewal if

1. The registered agent’s registration has been revoked in another county;
2. Information on the registration form has been determined to be invalid or false or;
3. The criminal background check shows the registered agent has been convicted of a felony offense under this article more than once in the last five years.

Revocation:

The sheriff’s office is authorized to revoke the secondary metals recycler’s registration if the registered agent has been convicted of a felony offense under this article in the previous five years.

New Registration:

A secondary metals recycler’s registered agent shall be ineligible to obtain a new or renewed registration if they are under indictment for a felony offense of this article or has been convicted of a felony offense in the past five years under this article.

Penalties for Failure to Register: Any Secondary Metals Recycler convicted of violating this section is guilty of a misdemeanor of a high and aggravated nature.

PURCHASE TRANSACTIONS

Exempt Transactions

(O.C.G.A. § 10-1-358)

Purchases of Regulated Metal Property from the following Persons are exempt from the restrictions on the purchase of Regulated Metal Property under the Regulated Metals Recycling Law **except in the purchase of used, detached catalytic converters:**

- Manufacturing, industrial, or other commercial vendors that generate **AND** sell Regulated Metal Property in the ordinary course of their business with the exception of secondary metal recyclers (the “business-to-business exception”)

*NOTE: (Transactions between **Georgia** Secondary Metals Recyclers are **not** exempt transactions under the “business-to-business” exception.)*

- Non-profit groups
- Law Enforcement Officers acting in their official capacity
- Bankruptcy trustee, executor administrator or receiver **with proof of status**
- Public official acting under judicial process or authority **with proof of status**
- Sale on the execution of any process issued by a court **with proof of status**
- A vehicle purchased by used motor vehicle or used motor vehicle parts dealer

NOTE: Transactions involving used, detached catalytic converters are EXCLUDED from the exemptions in 10-1-358 relating to business to business exceptions.

Hours of Business

(O.C.G.A. §10-1-359(1))

The purchase or sale of Regulated Metal Property by a Secondary Metals Recycler is prohibited between the hours of 7:00 P.M. and 7:00 A.M. A Secondary Metals Recycler may only purchase and sell Regulated Metal Property between the hours of 7:00 A.M. and 7:00 P.M. Other normal business activities (processing, receipt and unloading of trucks, etc.) are allowed at any hour, but no Purchase Transactions may take place during prohibited hours.

Payment Restrictions

(O.C.G.A. §10-1-355)

The Regulated Metals Recycling Law places restrictions on the form of payment for any Purchase Transaction (other than Exempt Transactions (see “*Exempt Transactions*” above) which transactions are exempt from the Payment Restrictions). Those restrictions are as follows:

Cash Payments: Limited cash payment to a seller by a Secondary Metals Recycler is now allowed beginning January 1, 2024 and expiring on January 1, 2026. A Secondary Metals Recycler may pay cash to any seller up to \$100.00 for two transactions per seller, per day, per registered Secondary Metals Recycler location. A Secondary Metals Recycler is prohibited from paying cash on transactions involving:

- Used, detached catalytic converters
- Air conditioning coils
- Used utility wire
- Used communications copper
- Copper wire
- Batteries

Checks Permitted: Payment by check is permitted. Checks must be made payable only to the Seller of the Regulated Metal Property and can be delivered to the seller at the time of the purchase transaction. A Secondary Metals Recycler is not permitted to (a) redeem or cash any check paid to a Seller or (b) provide or permit any mechanism on the Secondary Metals Recycler’s premises for the redemption or cashing of the check.

Electronic Transfers Permitted: Payment by Electronic Transfer is permitted and, similar to payments by check, (a) the electronic transfer is payable only to the seller, (b) it may not be redeemed or cashed by the Secondary Metals Recycler and (c) the Secondary Metals Recycler may not provide or permit any mechanism on the Secondary Metals Recycler’s premises for redemption or cashing of an Electronic Transfer. **Electronic Transfers may include payment with a cash or prepaid debit card not redeemable on-site.**

Vouchers Permitted: Payment by Voucher is permitted. Unlike Checks and Electronic Transfers, Vouchers may be redeemed by the Secondary Metals Recycler for cash but only after a three (3) day waiting period.

(1) **Required Voucher Information:** Vouchers must include the following information: (i) the date of the Purchase Transaction, (ii) the name of the Seller, (iii) the amount paid for the Regulated Metal Property, (iv) a detailed description of the Regulated Metal Property purchased, (v) information as to whether the voucher was mailed or delivered to Seller at the time of the Purchase Transaction, (vi) the first date on which the Voucher may be redeemed, and (vii) the date on which the Voucher expires.

(2) **Voucher Redemption:** The Voucher may only be redeemed for cash by the Seller or by the Seller’s heirs or legal representatives.

(3) **Expiration of Voucher:** If a Voucher is not redeemed by the Seller or by the Seller’s heirs or legal representatives within six (6) months of the date of the transaction, the Voucher expires and the Secondary Metals Recycler is not required to honor the Voucher after the expiration date.

Recordkeeping Requirements

(O.C.G.A. § 10-1-353)

Legible records of all Purchase Transactions must be maintained by a Secondary Metals Recycler for a period of two (2) years. The records must include the following:

(1) **Secondary Metals Recycler Identifying Information:** The name and address of the Secondary Metals Recycler.

(2) **Purchase Transaction Date:** The date of the Purchase Transaction.

(3) **Description of Regulated Metal Property:** The weight, quantity or volume, and description of the type of Regulated Metal Property purchased.

- Type means a general physical description of the Regulated Metal Property, such as wire, tubing, extrusions, castings, etc.
- Example: An adequate entry might look like: 150 lbs. #2 copper wire or 150 lbs. copper wire & tubing – mixed (Compared to an inadequate entry that omits the type: 150 lbs. #2 copper)

(4) **Photo of Regulated Metal Property:** Digital photograph(s) or digital video image(s) of the Regulated Metal Property which shows the Regulated Metal Property in a

reasonably clear manner. This does not require a piece by piece photo, but an image of the load as delivered.

(5) **Purchase Price and Copy of Payment:** The amount of money paid for the Regulated Metal Property and a copy of the check, voucher or documentation evidencing the electronic funds transfer given as consideration for the Purchase Transaction.

(6) **Seller's Statements/Affidavit:** A signed and sworn statement from the Seller stating as follows (*this may be printed at the bottom of a purchase ticket*):

(a) "I am the rightful owner of the material described above, or am entitled by the rightful owner to sell the material described above."; and

- (b) "I understand 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 (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 *registered* pursuant to Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated"
*** reference to batteries in exemption removed by HB 461, changes references to recycler permit to "registered" ***

(7) **Copy of Seller's/Deliverer's Government Issued ID Card:** A photocopy or scan of a valid Personal Identification Card of Seller and the Deliverer, if the Deliverer is different from the Seller, which record contains (a) the individual's name, address and photograph (Ex. a driver's license, military ID, or work permit from the federal government) and (b) the type of identification and the distinctive identification number. The seller, or deliverer (if applicable) must provide their name(s) and date(s) of birth, along with photo(s), video(s), or digital recording(s) recognizably depicting their face(s) that can be stored and transferred electronically.

(8) **Photo of Seller:** A clear photograph, videotape, or digital recording of the face ("recognizable facial image") of the Seller and the Deliverer, if the Deliverer is different from the Seller, to be retained in a transferable electronic storage format.

(9) **Vehicle Identifying Information:** Vehicle license tag number and the state of issue of the license tag, make, model, and color of Vehicle used to deliver the metal. In the event that the delivering vehicle does not have a valid license tag, the Secondary Metals Recycler is required to record the Vehicle Identification Number (VIN) of the delivering vehicle.

- Example: Pickup truck; Tag number: Georgia ABC123 or Dump body truck; Tag number: South Carolina 321CBA.
- Type of Vehicle means automobile, pickup truck, van, or truck.

(10) **Copies of Licenses and Registrations:** A scan or photocopy of the licenses, permits, registration and other documentation required in connection with Purchase Transactions with Licensed Contractors, Licensed Funeral Directors, Licensed Cemetery Owners and Licensed Burial Object Manufacturers/Distributors described above.

(11) **Title or Title Cancellation Certificate:** In accordance with O.C.G.A. §40-3-36, for the purchase of end of life Vehicles and Trailers, a copy of the Title or of the Title Cancellation Certificate that is required to be sent to the Motor Vehicle Division of the Department of Revenue (the “*DMV*”). The Secondary Metals Recycler must forward the original Title or Title Cancellation Certificate to the DMV within 72 hours of receipt of the Title or Title Cancellation Certificate.

Electronic reporting of this information will be required at some point after July 1, 2012
(awaiting development by Georgia Department of Revenue).

(12) **Transactions between Georgia Secondary Metals Recyclers:** When purchasing Regulated Metal Property from other Georgia Secondary Metals Recyclers, the purchasing recycler should obtain documentation that the selling recycler has purchased all Regulated Metals Properties in the shipment in accordance with Georgia law.

An industrial account would cover any purchase that might otherwise be excluded under 10-1-358 (as catalytic converters are now excluded from that exclusion).

Purchase Transaction Database

(O.C.G.A. § 10-1-359.5)

Effective July 1, 2015, Recyclers must provide record information, except for the amount of consideration given, electronically to the Georgia Bureau of Investigation or its designee. A Recycler who maintains a copy with the Bureau or its designee of the statements each seller must sign and swear to may provide a copy of the individual seller's signature instead of the actual statements, provided the statements are retained and are available for inspection.

Effective July 1, 2023, recyclers must provide a statement to the Georgia Bureau of Investigation that their registration or business license has not been revoked, suspended, or canceled in the previous year when registering or renewing a license.

Every purchase of a used, detached catalytic converter or any nonferrous metal parts of a catalytic converter, either from an industrial account or a secondary metals recycler, must be electronically submitted to the Georgia Bureau of Investigation with the following information:

- The name and address of the seller
- The date, time, and place of the transaction
- The number of used, detached catalytic converters or pounds of catalyst metal purchased

An industrial or commercial account would include any purchase that might otherwise be excluded under 10-1-358 (as catalytic converters are now excluded from that exclusion).

The Bureau or its designee shall establish and maintain a database of reported information. Such information shall be considered a trade secret exempt from disclosure under Art. 4, Ch. 18, Title 50; this shall not relieve the Recycler of the obligation to report such to the Bureau or its designee. The database shall be accessible and searchable by:

- All law enforcement agencies in the state; and
- Employees of electric suppliers (§ 46-3-3) and of telecommunications companies (§ 46-5-162), provided that such employees have been certified by the Georgia Peace Officers Standards and Training Council as having successfully completed the course of training required by Ch. 8 of Title 35.

The Bureau shall promulgate rules and regulations and establish procedures necessary for this section and ensure compliance with applicable federal and state laws, including:

- The time, manner, and method of the transmittal of the information;
- The manner and method by which employees of electric suppliers and telecommunications companies may access and search the database; and
- The specific information the employees of electric suppliers and telecommunications companies may access and search within the database.

Any person who attempts to use the database for any purpose other than the investigation of an alleged crime or conspires to do so shall be guilty of a felony punishable by:

- 1st conviction: 1 to 5 years imprisonment and/or up to a \$5,000 fine;
- 2nd or subsequent: 5 to 10 years imprisonment and/or up to a \$40,000 fine.

SPECIAL PURCHASE TRANSACTIONS

Air Conditioning Unit Coils

[\(O.C.G.A. § 10-1-351\)](#)



A Secondary Metals Recycler is only permitted to purchase Coils (excluding automobile air conditioning coils and window air conditioning coils if still contained in the unit) from the following Persons:

(1) **Licensed Contractor:** A Licensed Contractor (electrical contractors, plumbers, conditioned air contractors, low-voltage contractors and utility contractors) that is licensed by the State of Georgia or by another State who at the time of the Purchase Transaction either (a) provides to the Secondary Metals Recycler a copy of the contractor's valid license (which license must be scanned

or photocopied by the Secondary Metals Recycler) or (b) has on file with the Secondary Metals Recycler a scan or photocopy of the contractor's valid license.

(2) **Certain Sellers:** A Seller who at the time of the Purchase Transaction has verifiable documentation, such as a receipt or work order, indicating that the Coils are the result of the replacement by a Licensed Contractor of the condenser Coils or of a heating or air-conditioning system (which documentation should be scanned or photocopied by the Secondary Metals Recycler).

(3) **Other Secondary Metals Recyclers:** Another Secondary Metals Recycler who at the time of the Purchase Transaction provides proof of registration pursuant to § 10-1-359.1 and a signed statement that the required information involving the coil was provided to the Georgia Bureau of Investigation pursuant to § 10-1-359.5

Burned Copper Wire

[\(O.C.G.A. § 10-1-351\)](#)



A Secondary Metals Recycler is only permitted to purchase Burned Copper Wire from the following Persons:

(1) **Licensed Contractor:** A Licensed Contractor who is licensed by the State of Georgia or by another state who at the time of the Purchase Transaction either (a) provides to the Secondary Metals Recycler a copy of the contractor's valid license (which license must be scanned or photocopied by the Secondary Metals Recycler) or (b) has on file with the Secondary Metals Recycler a scan or photocopy of the contractor's valid license.

(2) **Certain Sellers:** A Seller who at the time of the Purchase Transaction has a copy of a police report showing that Seller's property was involved in a fire (which report must be scanned or photocopied by the Secondary Metals Recycler).

(3) **Other Secondary Metals Recyclers:** Another Secondary Metals Recycler who at the time of the Purchase Transaction provides proof of registration pursuant to § 10-1-359.1 and a signed statement that the required information involving the wire was provided to the Georgia Bureau of Investigation pursuant to § 10-1-359.5

Burial Objects

[\(O.C.G.A. § 10-1-352\)](#)

A Secondary Metals Recycler is only permitted to purchase Burial Objects from the following Persons:

(1) **Licensed Funeral Director:** A Licensed Funeral Director that is licensed by the State of Georgia or by another state who at the time of the Purchase Transaction either (a) provides to the Secondary Metals Recycler a copy of the directors valid license (which must be scanned or photocopied by the Secondary Metals Recycler) or (b) has on file with the Secondary Metals Recycler a scan or photocopy of the director's valid license.

(2) **Licensed Cemetery Owner:** A Licensed Cemetery Owner who at the time of the Purchase Transaction either (a) provides to the Secondary Metals Recycler a copy of the owner's valid registration documents (which must be scanned or photocopied by the Secondary Metals Recycler) or (b) has on file with the Secondary Metals Recycler a scan or photocopy of the owner's valid registration documents.

(3) **Licensed Burial Object Manufacturer/Distributor:** A Licensed Burial Object Manufacturer/Distributor who at the time of the Purchase Transaction either (a) provides to the Secondary Metals Recycler (i) a copy of the manufacturer/ distributor's valid business license (which must be scanned or photocopied by the Secondary Metals Recycler) or (b) has on file with the Secondary Metals Recycler a scan or photocopy of the manufacturer/distributor's valid business license.

(4) **Certain Sellers:** A Seller who at the time of the Purchase Transaction has verifiable documentation, such as a receipt from or contract with a Licensed Funeral Director, Licensed Cemetery Owner, or Licensed Burial Object Manufacturer/Distributor, evidencing that such Seller is the rightful owner of the Burial Object.

(5) **Other Secondary Metals Recyclers:** Another Secondary Metals Recycler who at the time of the Purchase Transaction provides proof of registration pursuant to § 10-1-359.1 and a signed statement that the required information involving the Burial Object was provided to the Georgia Bureau of Investigation pursuant to § 10-1-359.5

Catalytic Converters

[\(O.C.G.A. § 10-1-351 \(d\)\(1\)\)](#)



- It shall be unlawful for any person to purchase or to solicit or advertise for the purchase of a used, detached catalytic converter, or any nonferrous metal parts of a catalytic converter, unless such person is a registered secondary metals recycler in accordance with Code Section 10-1-359.1 and in full compliance with all requirements prescribed by this article.
- It shall be unlawful for any person to purchase, possess, transport, or sell a used, detached catalytic converter, or any nonferrous metal parts of a catalytic converter, unless such person is authorized to purchase, possess, transport, or sell catalytic converters pursuant to subsection (c) of this Code section and is in possession of the licenses, registrations, or other documentation required by subsection (c) of this Code section.
- Each unlawfully possessed or obtained used, detached catalytic converter shall be considered a separate offense."

A Recycler may only purchase a catalytic converter than is attached to a vehicle or is purchased from:

(1) **Licensed Used Car Dealer:** A used motor vehicle dealer or used motor vehicle parts dealer licensed pursuant to Ch. 47 of Title 43 or by any other state whose valid license the Recycler copies at the time of the purchase transaction or has on file

(2) **Licensed New Motor Vehicle Dealer:** A new motor vehicle dealer, motor vehicle repairer, or manufacturer or distributor of catalytic converters whose valid business license the Recycler copies at the time of the purchase transaction or has on file.

(3) **Certain Sellers:** A seller with verifiable documentation, such as a receipt or work order, indicating the catalytic converter is the result of a replacement performed by a used motor vehicle dealer, new motor vehicle dealer, or motor vehicle repairer, noting the make, model, and year of the vehicle in which it was replaced, as well as a copy of the vehicle's title or registration showing ownership or interest in it.

(4) **Other Secondary Metals Recyclers:** A Recycler who provides proof of registration pursuant to § 10-1-359.1 and a signed statement that the required information involving the catalytic converter was provided to the Georgia Bureau of Investigation pursuant to § 10-1-359.5

Each secondary metals recycler must now electronically submit to the Georgia Bureau of Investigation a record of the receipt of each purchase of a used, detached catalytic converter, or any nonferrous metal parts of the catalytic converter, from an industrial account or a secondary metals recycler. The report must include:

- The name and address of the seller
- The date, time, and place of transaction
- The number of used, detached catalytic converters or pounds of catalyst metal purchased

Vehicles and Trailers

(O.C.G.A. §§ 40-3-36; 40-3-56)

Purchases of Vehicles and Trailers: The 2012 Amendments to the Regulated Metals Recycling Law add Trailers to the regulations governing de-titling of Vehicles. When purchasing a Vehicle or Trailer as scrap, a Secondary Metals Recycler must obtain from the Seller at the time of the Purchase Transaction either (a) the Title for the Vehicle or Trailer; or (b) a Title Cancellation Certificate executed by the Seller, if applicable.

Regulations Governing Use of the Title Cancellation Certificate: If a Seller did not obtain a Title in Seller's name or has lost the Title for (a) a Vehicle that is at least 12 model years old and worth \$850.00 or less or (b) a Trailer that is at least 12 model years old and worth \$1,700.00 or less, then the Secondary Metals Recycler may accept from the Seller a completed and executed

Title Cancellation Certificate with respect to that Vehicle or Trailer. Knowingly falsifying a title cancellation certificate by either the buyer or the seller is a felony.

Filing of Documents with the DMV: Secondary Metals Recyclers are required to submit the Title or the Title Cancellation Certificate to the DMV within seventy-two (72) hours of receipt of the document from the Seller. The Title Cancellation Certificate provides instructions and the address to which to mail the Title Cancellation Certificate. Copies of the form of the Title Cancellation Certificate are available on the Internet at:

<https://dor.georgia.gov/document/form/mv-1sp-cancellation-certificate-title-scraperelict-vehicles/download>

**This information will be required to be reported electronically to Georgia Department of Revenue – Motor Vehicles Division.

Record Retention: Secondary Metals Recyclers must keep a copy of the Title or the completed Title Cancellation Certificate. Secondary Metals Recyclers must retain copies of the Title or Title Cancellation Certificate, as applicable and all related Purchase Transaction documentation for at least 2 years.

Liens/Security Interests: Under the 2012 Amendments, the State is required to develop an on-line method for Secondary Metals Recyclers to determine whether a purchased Vehicle is subject to a security interest or a lien (a “*Lien*”). As soon as this on-line method is available, Secondary Metals Recyclers will be required to certify in the Title Cancellation Certificate (for vehicles purchased without a title) that they have verified that the Vehicle is not subject to any Liens.

Further, the Amendments automatically release liens as follows:

(1) **Liens on Vehicles Less than 12 Model Years Old:** For Vehicles that are less than (12) model years old, a Lien on the Vehicle will be considered satisfied and released, if it has been at least ten (10) years since the date of issuance of the Title for the Vehicle.

(2) **Liens on Vehicles 12 Model Years or Older:** For Vehicles which are twelve (12) model years or older, a Lien on the Vehicle will be considered satisfied and released, if it has been at least four (4) years since the date of issuance of the Title for the Vehicle.

(3) **Extension of Liens:** Liens may be extended beyond ten (10) years for a Vehicle which is less than 12 model years old and beyond four (4) years for a Vehicle which is 12 model years or older by obtaining a new Title for the Vehicle with the Lien listed on the new Title. The application for the new Title must be submitted to the DMV or the DMV’s duly authorized tag agent before the end of the ten (10) year or four (4) year period, respectively.

All liens are now required to be released by the lienholder upon their satisfaction.

LAW ENFORCEMENT AND PROPERTY DISPUTES

Law Enforcement Officers Rights and Responsibilities

[\(O.C.G.A. §10-1-354\)](#)

Law Enforcement Officer’s Right to Inspect: During a Secondary Metals Recycler’s usual business hours, a Law Enforcement Officer properly identifying himself or herself as an officer has the right to inspect: (a) any Regulated Metal Property in the possession of the Secondary Metals Recycler and (b) any records required to be maintained with respect to Purchase Transactions and to issue hold notices with respect to any Regulated Metal Property that the officer suspects is stolen property (See the “*Hold Notices*” section below)

Topics Relevant to Inspection: The following is a list of Compliance Guide topics that Secondary Metals Recyclers may need to know or review when Law Enforcement Officers come to inspect the inventory or records of a Secondary Metals Recycler:

- Hold Notices
- Regulated Metal Property Ownership Disputes; Restitution
- Exempt Transactions
- Hours of Business
- Payment Restrictions
- Illegal Acts
- Criminal and Civil Penalties
- Forfeiture and Seizure

Hold Notices

[\(O.C.G.A. §10-1-356\)](#)

Hold Procedures: If a Law Enforcement Officer has reasonable cause to believe that any specific item or items of Regulated Metal Property in a Secondary Metals Recycler’s possession have been stolen, the Law Enforcement Officer may issue a written hold notice (the “*Hold Notice*”) specifically identifying the item(s) believed to have been stolen. Only those items specifically identified in the written Hold Notice are covered by the Hold Notice.

Hold Period: Upon receipt of the written Hold Notice, the Secondary Metals Recycler must hold such item(s) on the premises, and not process the item(s), for a period of 15 calendar days, unless the hold is released sooner than 15 days (or extended) by a Law Enforcement Officer (the “*Hold Period*”). Those items specifically identified in the written Hold Notice should not be mixed with any other items and kept separate during the Hold Period.

Hold Extension: During the initial 15-day Hold Period, a Law Enforcement Officer may issue and deliver to the Secondary Metals Recycler a written extension of the hold notice specifically identifying the item(s) covered by the extended Hold Notice (the “*Hold Extension*”). After receipt of the Hold Extension, the Secondary Metals Recycler may not remove from the premises or process the covered item(s) for a period of 30 days from the date of receipt of the Hold Extension. The Hold Extension can be released sooner than 30 days.

Release of Hold: At the expiration of the Hold Period, the hold is automatically released and the Secondary Metals Recycler may dispose of the covered items, unless the courts have ordered otherwise.

Regulated Metal Property Ownership Disputes; Restitution

[\(O.C.G.A. §10-1-357\)](#)

Ownership Dispute: If a Person claims (the “*Claimant*”), that he or she owns a Regulated Metal Property which is in the possession of a Secondary Metals Recycler (the “*Disputed Property*”), and the Secondary Metals Recycler also claims ownership, the Secondary Metals Recycler is not required to surrender the Disputed Property to the Claimant. The Claimant is required to file a civil lawsuit to recover the Disputed Property in a superior or state court located in the county in which the Secondary Metals Recycler is located. The Claimant must have previously filed a timely report of the theft of the Disputed Property to the proper authorities. The Claimant’s petition must include a description of the means of identification of the Disputed Property as the Claimant’s property. It is recommended that the Disputed Property be set aside or segregated until resolution of the dispute.

Secondary Metals Recycler’s Rights to Restitution: If the Disputed Property is recovered by the Claimant from a Secondary Metals Recycler who had followed the provisions of the Regulated Metals Recycling Law and maintained accurate records of the questioned Purchase Transaction, restitution is possible if the Person who sold the Disputed Property to the Secondary Metals Recycler is convicted (the “*Thief*”). If the Thief is convicted, the court must order full restitution be made to the Secondary Metals Recycler by the Person convicted (including attorneys’ fees, court costs and other expenses).

NOTE: Although a Secondary Metals Recycler may obtain an order of restitution from the court, it is often difficult and costly to recover the value of the assets from a Thief.

Illegal Acts

[\(O.C.G.A. §10-1-359\(2\)\)](#)

It is illegal for a Secondary Metals Recycler to purchase or sell Regulated Metal Property in violation of restricted hours of operation (7 pm-7 am).

Presentation by Seller of False Identification: It is illegal for a Person selling Regulated Metal Property to a Secondary Metals Recycler to (i) present to the Secondary Metals Recycler a false or altered Personal Identification Card, Vehicle tag number or Vehicle identification number (VIN) or (ii) to falsely sign a statement that he owns the Regulated Metal Property or has been authorized by the owner to sell the Regulated Metal Property to the Secondary Metals Recycler.

Failure of Secondary Metals Recycler to Retain Records: It is illegal for a Secondary Metals Recycler to fail to obtain the required information, such as a valid Personal Identification Card, Vehicle tag number, required photographs, or to fail to keep the records for purchases of Regulated Metal Property for at least 2 years from the date of the purchase.

Criminal and Civil Penalties

[\(O.C.G.A. §10-1-359.2\)](#)

Criminal Penalties:

Any person who purchases or sells Regulated Metals in violation of statutes (except as provided for unregistered Recyclers), or makes a false statement in executing a statement required by the Recordkeeping provision is guilty of:

- 1st offense: misdemeanor;

- 2nd offense: misdemeanor of a high and aggravated nature;
- 3rd or subsequent, **or when such regulated metal property is unlawfully obtained and results in property damage exceeding \$1,500.00**: felony subject to 1 to 10 years imprisonment.

Each unlawfully possessed or obtained used, detached catalytic converter will be considered a separate offense.

Any person who attempts to use the database for any purpose other than the investigation of an alleged crime or conspires to do so shall be guilty of a felony punishable by:

- 1st conviction: 1 to 5 years imprisonment and/or up to a \$5,000 fine;
- 2nd or subsequent: 5 to 10 years imprisonment and/or up to a \$40,000 fine.

Civil Penalties: In addition to the criminal penalties above, any Person who buys or sells Regulated Metal Property in violation of any provision of the Regulated Metals Recycling Law may be liable in a civil action to any Person who was the victim of a Crime involving the 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.

Forfeiture, **Contraband and Seizure** [\(O.C.G.A. §10-1-359.3\)](#)

The 2012 Amendments provide for additional penalties in the form of forfeiture and seizure of property (such as Vehicles, tools, equipment, and driver's licenses) used in the commission of the metal theft crime and also provide for the sale of these assets to pay restitution. This includes any property or weapons possessed, used or intended or available for use, directly or indirectly, to facilitate a crime (and any proceeds of that property).

The 2023 law will put items labeled **contraband**, such as property directly or indirectly used to facilitate a crime under this code section, under the Uniform Civil Procedures Forfeiture Act (O.C.G.A. §16-9).

Used, detached catalytic converters not legally purchased or possessed as defined in Code section 10-1-351 shall be considered **contraband** as well as any vehicle used in the transportation of such catalytic converters. Any civil forfeiture proceedings for any vehicle seized will be stayed during the pending criminal proceedings unless otherwise agreed to by the owner.

State Preemption [\(O.C.G.A. §10-1-359.4\)](#)

The Regulated Metals Recycling Law supersedes and preempts all county, municipal and other local government rules, regulations, codes, ordinances and laws except for (a) laws affecting local land use and zoning relating to Secondary Metal Recyclers and (b) laws relating to occupational tax certificates and those imposing occupational taxes and regulatory fees on Secondary Metal Recyclers.

Motor Vehicles and Trailers

Motor vehicles and trailers purchased for scrap or for parts by a Secondary Metals Recycler or licensed used motor vehicle parts dealer only, are governed by O.C.G.A. §40-3-36. It is important

to note that anyone who purchases a vehicle for scrap or parts must comply with the provisions of the National Motor Vehicle Title Information System (NMVTIS), 28 CFR Part 25 (B), including reporting all vehicles purchased to NMVTIS.

In order to report, each purchaser is required to obtain a reporting entity ID and this ID number must be included on the Georgia form MV1SP when a vehicle is purchased using that form.

Note that HB 269 passed in 2011 and made effective July 1, 2012 by HB 872, will require Secondary Metals Recyclers or licensed used motor vehicle parts dealers to report NMVTIS data to the Motor Vehicle Division of the Georgia Department of Revenue and for the Motor Vehicle Division to report that information on behalf of the Secondary Metals Recycler or licensed used motor vehicle parts dealer to NMVTIS.

Violations of NMVTIS carry civil penalties of up to \$1,000.00 per violation (each unreported vehicle).

“The provisions of this article shall not apply to a vehicle purchased in compliance with Code Section 40-3-36 by a used motor vehicle dealer or used motor vehicle parts dealer licensed pursuant to Chapter 47 of Title 43.” And that the provisions of 40-3-36 govern all purchases of motor vehicles for scrap or parts, excluding “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.”

NOTE: All purchases of motor vehicles for scrap or parts (purchased with or without titles, must be reported within 48 hours of purchase, to the Department of Revenue (through their contractor, Auto Data Direct) who will then report the vehicles to the National Motor Vehicle Title Information System (NMVTIS) at no cost, on behalf of the purchaser.

NOTE: The Department of Revenue has now determined that there is now a sufficient on-line method for determining if there is an active lien on a vehicle so a secondary metals recycler purchasing a vehicle without a title, with an MV-1SP is now required to do a lien check on that vehicle.

For additional information on NMVTIS and reporting information, Visit www.nmvtis.gov

This Compliance Guide is designed as a resource to help Secondary Metals Recyclers understand and comply with the Regulated Metals Recycling Law but it is not offered as legal advice nor meant to serve a substitute for the advice of legal counsel. Secondary Metal Recyclers are encouraged to read the Regulated Metals Recycling Law or consult with legal counsel regarding the law if they have any questions.

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