

## Article 14 Secondary Metals Recyclers (§§ 10-1-350 — 10-1-359.5)

Current through the 2022 Regular Session of the General Assembly.

### **O.C.G.A. § 10-1-350**

#### **10-1-350. Definitions.**

- (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) "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 county or municipal corporation to engage in a profession or business.
- (4) "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.
- (5) "Copper property" means any copper wire, copper tubing, copper pipe, or any item composed completely of copper.
- (6) "Copper wire" means any wires, cables, bus bars, or waveguides containing any portion of copper, whether or not coated with insulation.
- (7) "Deliverer" means any individual who takes or transports the regulated metal property to the secondary metals recycler.
- (8) "Ferrous metals" means any metals containing significant quantities of iron or steel.
- (9) "Law enforcement officer" means any duly constituted peace officer of the State of Georgia or of any county, municipality, or political subdivision thereof.
- (10) "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.
- (11) "Person" means an individual, partnership, corporation, joint venture, trust, association, or any other legal entity.
- (12) "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.
- (13) "Purchase transaction" means a transaction in which the secondary metals recycler gives consideration in exchange for regulated metal property.
- (14) "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.
- (15) "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 aluminum beverage containers, used beverage containers, or similar beverage containers.
- (16) "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.
- (17) "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.

(18) "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.

(19) "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.

## 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; Ga. L. 2015, p. 588, § 1/HB 461. Ga L., 2023, § 1-1/SB 60.

# O.C.G.A. § 10-1-351

## 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 or by another state that provides a copy of such valid license at the time of the purchase transaction 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 such coil is 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 proof of registration pursuant to Code Section 10-1-359.1 and a signed statement stating that the required information concerning the purchase transaction involving such coil was provided by such secondary metals recycler to the Georgia Bureau of Investigation pursuant to Code Section 10-1-359.5.

(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 or by another state that provides a copy of such valid license at the time of the purchase transaction 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 proof of registration pursuant to Code Section 10-1-359.1 and a signed statement stating that the required information concerning the purchase transaction involving such copper wire was provided by such secondary metals recycler to the Georgia Bureau of Investigation pursuant to Code Section 10-1-359.5.

(c) No secondary metals recycler shall purchase a catalytic converter unless such catalytic converter is:

(1) Attached to a vehicle; or

(2) Purchased from:

(A) A used motor vehicle dealer or used motor vehicle parts dealer licensed pursuant to Chapter 47 of Title 43 or by another state that provides a copy of such valid license at the time of the purchase transaction that is scanned or photocopied by the secondary metals recycler or whose scanned or photocopied license is on file with the secondary metals recycler;

(B) A new motor vehicle dealer that provides a copy of a valid business license at the time of the purchase transaction that is scanned or photocopied by the secondary metals recycler or whose scanned or photocopied business license is on file with the secondary metals recycler;

(C) A motor vehicle repairer that provides a copy of a valid business license at the time of the purchase transaction that is scanned or photocopied by the secondary metals recycler or whose scanned or photocopied business license is on file with the secondary metals recycler;

(D) A manufacturer or distributor of catalytic converters that provides a copy of a valid business license at the time of the purchase transaction that is scanned or photocopied by the secondary metals recycler or whose scanned or photocopied business license is on file with the secondary metals recycler;

(E) A seller with:

(i) Verifiable documentation, such as a receipt or work order, indicating that the catalytic converter is the result of a replacement of a catalytic converter performed by a used motor vehicle dealer, new motor vehicle dealer, or motor vehicle repairer. Such documentation shall include a notation as to the make, model, and year of the vehicle in which such catalytic converter was replaced; and

(ii) A copy of a certificate of title or registration showing ownership of or interest in the vehicle in which the catalytic converter was replaced; or

(F) A secondary metals recycler who provides proof of registration pursuant to Code Section 10-1-359.1 and a signed statement stating that the required information concerning the purchase transaction involving such catalytic converter was provided by such secondary metals recycler to the Georgia Bureau of Investigation pursuant to Code Section 10-1-359.5.

(d)(1) As used in this subsection, the term 'used, detached catalytic converter' means motor vehicle exhaust system parts that are used for controlling the exhaust emissions from motor vehicles and that contain 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.

(2) 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.

(3) 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.

(4) Each unlawfully possessed or obtained used, detached catalytic converter shall be considered a separate offense.

## **History**

Code 1981, § 10-1-351, enacted by Ga. L. 2012, p. 112, § 1-1/HB 872; Ga. L. 2015, p. 588, § 2/HB 461. Ga L., 2023, § 1-1/SB 60.

# **O.C.G.A. § 10-1-352**

## **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 pursuant to Chapter 18 of Title 43 or by another state who provides a copy of his or her valid license at the time of the purchase transaction 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 that provides a copy of such valid registration at the time of the purchase transaction 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 that provides a copy of a valid business license at the time of the purchase transaction that is scanned or photocopied by 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 proof of registration pursuant to Code Section 10-1-359.1 and a signed statement stating that the required information concerning the purchase transaction involving such burial object was provided by such secondary metals recycler to the Georgia Bureau of Investigation pursuant to Code Section 10-1-359.5.

## History

Code 1981, § 10-1-352, enacted by Ga. L. 2012, p. 112, § 1-1/ HB 872; Ga. L. 2015, p. 588, § 3/ HB 461.

## O.C.G.A. § 10-1-353

### **10-1-353. Record of transaction; false statements; penalty for making false statement.**

- (a) Except as provided in subsection (c) of this Code section, 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 cash or electronic funds transfer given as consideration for such purchase transaction;
  - (6) A signed statement 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 statement 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 (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';
  - (8) A scanned or photocopied copy of a valid personal identification card of the seller and of the deliverer, if such person is different from the seller;
  - (9) The type of and distinctive number from the personal identification card of the seller and of the deliverer, if such person is different from the seller;
  - (10) The name and date of birth of the seller and of the deliverer, if such person is different from the seller;
  - (11) A photograph, videotape, or digital recording depicting a recognizable facial image of the seller and of 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;

(12) The vehicle license tag number or vehicle identification number, state of issue, and the make, model, and color of the vehicle used to deliver the regulated metal property to the secondary metals recycler; and

(13) A scanned or photocopied copy of the verifiable documentation, reports, licenses, certificates, 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 regulated metal property being purchased is a vehicle, the secondary metals recycler shall:

(1) If Code Section 40-3-36 is applicable, purchase such vehicle in compliance with such Code section and shall not be required to maintain a record of the purchase transaction as provided in subsection (a) of this Code section or to provide such record to the Georgia Bureau of Investigation pursuant to Code Section 10-1-359.5; or

(2) If Code Section 40-3-36 is not applicable, maintain a record of such purchase transaction as provided in subsection (a) of this Code section and provide such record to the Georgia Bureau of Investigation pursuant to Code Section 10-1-359.5.

(d) It shall be a violation of this article to sign the statement required by either paragraph (6) or (7) of subsection (a) of this Code section knowing it to be false, and such violation shall subject the seller to the civil and criminal liability provided in Code Section 10-1-359.2.

## **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; Ga. L. 2015, p. 588, § 4/HB 461. Ga L., 2023, § 1-1/SB 60.

## **O.C.G.A. § 10-1-354**

### **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.

## **O.C.G.A. § 10-1-355**

### **10-1-355. Conditions and limitations on payments for regulated metal property; exception for transaction between business entities. (Effective Jan. 1, 2024)**

(a) A secondary metals recycler shall pay only by check, electronic funds transfer, cash, or voucher for regulated metal property and shall make any such payment as specifically provided for in this Code section.

(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) No secondary metals recycler shall:

(1) Pay to any seller more than \$100.00 in cash for any transaction or complete more than two transactions per seller, per day, per registered secondary metals recycler location;

(2) Pay cash to any seller for used, detached catalytic converters or coils;

(3) Pay cash to any seller for used utility wire;

(4) Pay cash to any seller for used communications copper;

(5) Pay cash to any seller for copper wire; or

(6) Pay cash to any seller for a battery.

(e) 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.

(f) The provisions of this Code section shall not apply to any transaction, other than a transaction related to used, detached catalytic converters, 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. Ga L., 2024, § 1-1/SB 60.

## O.C.G.A. § 10-1-356

### **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.

## **O.C.G.A. § 10-1-357**

### **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.

## **O.C.G.A. § 10-1-358**

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

This article shall not apply to purchases of regulated metal property, other than used, detached catalytic converters, 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 and 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. Ga L., 2023, § 1-1/SB 60.

## **O.C.G.A. § 10-1-358.1**

### **10-1-358.1. Exclusions from article's applicability.**

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.

## **O.C.G.A. § 10-1-359**

### **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.



# O.C.G.A. § 10-1-359.1

## **10-1-359.1. Registration of secondary metals recycler; electronic data base; 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 beginning January 1, 2024, and shall be renewed annually by January 1 of each year.

(b) The record of each registration shall be entered into an electronic data base accessible state wide. 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 \$200.00 for a new registration and an annual registration renewal for a secondary metals recycler;

(2) If applicable, require a secondary metals recycler to submit a current and valid business license in the county or municipality that is associated with the address on the registration form prior to approving the registration or registration renewal;

(3) Require the registered agent of a secondary metals recycler to submit to a criminal background check and fingerprinting for a new registration with the costs paid by the secondary metals recycler in an amount not to exceed \$75.00;

(4) Deny the new registration or registration renewal of a secondary metals recycler if such person's registration has been revoked in another Georgia county, information submitted on the registration form has been determined to be invalid or false, or it is determined by the criminal background check that such person has been convicted of a felony offense under this article more than three times in the previous five years;

(5) Revoke the registration of a secondary metals recycler's registered agent if the registered agent has been convicted of a felony offense in the previous five years under this article while serving as a registered agent;

(6) Require secondary metals recyclers to provide on the registration form the customer identification number for the current data base contractor maintained by the Georgia Bureau of Investigation;

(7) Require a secondary metals recycler to submit a signed and sworn statement that such person has not had such secondary metals recycler's 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;

(8) 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

(9) 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) A secondary metals recycler's registered agent shall be ineligible to obtain a new registration or registration renewal if such person is under indictment for a felony offense for violation of this article or has been convicted of a felony offense in the past five years under this article.

(e) 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. Ga L., 2023, § 1-1/SB 60.

# **O.C.G.A. § 10-1-359.2**

## **10-1-359.2. Penalties for violations.**

(a) Except as provided for in subsection (e) 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 or when such regulated metal property is unlawfully obtained and results in property damage exceeding the aggregate amount of \$1,500.00, 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.

Each unlawfully possessed or obtained used, detached catalytic converter, as such term is defined in subsection (d) of Code Section 10-1-351, shall be considered a separate offense under this Code section.

(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. Ga L., 2023, § 1-1/SB 60.

# **O.C.G.A. § 10-1-359.3**

## **10-1-359.3. Forfeiture; items declared 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 (b) 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;

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

(3) Any used, detached catalytic converter, as such term is defined in subsection (d) of Code Section 10-1-351, possessed in violation of subsection (d) of Code Section 10-1-351 and any vehicle used in the transportation of such used, detached catalytic converter, provided that any civil forfeiture proceedings for any vehicle seized pursuant to this subsection, including the reporting requirements set forth in Code Section 9-16-7, shall be stayed during the pendency of criminal proceedings unless otherwise agreed to by the owner or interest holder of such vehicle.

(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 Chapter 16 of Title 9.

## **History**

Code 1981, § 10-1-359.3, enacted by Ga. L. 2012, p. 112, § 1-1/HB 872. Ga L., 2023, § 1-1/SB 60.

# **O.C.G.A. § 10-1-359.4**

## **10-1-359.4. 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.

# **O.C.G.A. § 10-1-359.5**

## **10-1-359.5. Required information from secondary metals recyclers; role of Georgia Bureau of Investigation.**

(a)(1) Each secondary metals recycler shall provide to the Georgia Bureau of Investigation or its designee for each purchase transaction which takes place on or after July 1, 2015, all of the information required by subsection (a) of Code Section 10-1-353, 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, and a statement as to whether such secondary metals recycler's registration or business license has been revoked, suspended, or canceled in the previous year. A secondary metals recycler who maintains on file with the Georgia Bureau of Investigation or its designee a copy of the statement forms such secondary metals recycler requires each seller to sign pursuant to paragraphs (6) and (7) of subsection (a) of Code Section 10-1-353 may satisfy the requirements of such paragraphs by providing to the Georgia Bureau of Investigation or its designee a copy of the individual seller's signature and shall not be required to provide the actual statement signed by each seller, provided the actual statements are maintained by the secondary metals recycler pursuant to

subsection (b) of Code Section 10-1-353 and available for inspection pursuant to Code Section 10-1-354. The information required to be provided by the secondary metals recyclers to the Georgia Bureau of Investigation or its designee pursuant to this subsection shall be provided electronically.

(2) Each secondary metals recycler shall electronically submit to the Georgia Bureau of Investigation a record of the receipt of each purchase of a used, detached catalytic converter as defined in subsection (d) of Code Section 10-1-351, or any nonferrous metal parts of a catalytic converter, from an industrial account or a secondary metals recycler. Such 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.

(b) The Georgia Bureau of Investigation or its designee shall establish and maintain a data base of all information required to be provided pursuant to subsection (a) of this Code section. Such information shall be considered to be a trade secret and shall be exempt from disclosure under the provisions of Article 4 of Chapter 18 of Title 50; provided, however, that such exemption shall not relieve the secondary metals recycler of the obligation or requirement to provide such information to the Georgia Bureau of Investigation or its designee.

(c) The data base shall be accessible and searchable by:

(1) All law enforcement agencies in this state; and

(2) Employees of electric suppliers, as defined in Code Section 46-3-3, and employees of telecommunications companies, as defined in Code Section 46-5-162, provided that such employees have been certified by the Georgia Peace Officer Standards and Training Council as having successfully completed the course of training required by Chapter 8 of Title 35, the "Georgia Peace Officer Standards and Training Act."

(d)(1) It shall be unlawful to use the data base established pursuant to subsection (b) of this Code section for any purpose other than the investigation of an alleged crime.

(2) Any person who violates or conspires to violate paragraph (1) of this subsection shall be guilty of a felony and, upon conviction, shall receive the following punishment:

(A) Upon a first conviction, imprisonment for not less than one nor more than five years or a fine of not more than \$5,000.00, or both; or

(B) Upon a second or subsequent conviction, imprisonment for not less than five nor more than ten years or a fine of not more than \$40,000.00, or both.

(e) 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 and ensure compliance with applicable federal and state laws. Such rules and regulations shall include, but shall not be limited to:

(1) The time, manner, and method of the transmittal of the information by the secondary metals recyclers to the Georgia Bureau of Investigation;

(2) The manner and method by which employees of electric suppliers and telecommunications companies may access and search the data base and any prerequisites thereto; and

(3) The specific information the employees of the electric suppliers and telecommunications companies may access and search within the data base.

## **History**

Code 1981, § 10-1-359.5, enacted by Ga. L. 2012, p. 112, § 2-1/HB 872; Ga. L. 2015, p. 588, § 6/HB 461. Ga L., 2023, § 1-1/SB 60.

## **O.C.G.A. § 40-3-36**

## **40-3-36. Cancellation and destruction of certificate of title for scrap, dismantled, or demolished vehicles or trailers; salvage certificate of title; administrative enforcement; removal of license plates.**

**(a)(1)** Any registered owner or authorized agent of a registered owner who in any manner sells or disposes of any vehicle, including a trailer, as scrap metal or parts only or a secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor who scraps, dismantles, or demolishes a vehicle shall within 72 hours cancel the certificate of title by electronic means in a manner designated by the department and securely destroy the certificate of title.

**(2)** Notwithstanding any other provision of this article to the contrary, if the owner or authorized agent of the owner has not obtained a title in his or her name for the vehicle, including a trailer, to be transferred, or has lost the title for the vehicle or trailer to be transferred, he or she may sign a statement swearing that, in addition to the foregoing conditions, the vehicle or trailer is at least 12 model years old and is worth \$850.00 or less if the vehicle was used as a motor vehicle, or \$1,700.00 or less if the vehicle was used as a trailer. The statement described in this paragraph may be used only to transfer such a vehicle to a licensed used motor vehicle parts dealer under Code Section 43-47-7 or scrap metal processor under Code Section 43-43-1. The department shall promulgate a form for the statement which shall include, but not be limited to:

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

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

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

**(D)** A certification that the owner:

**(i)** Never obtained a title to the vehicle in his or her name; or

**(ii)** Was issued a title for the vehicle, but the title was lost or stolen;

**(E)** A certification that the vehicle:

**(i)** Is worth \$850.00 or less, or \$1,700.00 or less if the vehicle is a trailer;

**(ii)** Is at least 12 model years old; and

**(iii)** Is not subject to any secured interest or lien;

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

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

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

**(I)** A certification by the business that \$850.00 or less, or \$1,700.00 or less if the vehicle is a trailer, was paid to acquire the vehicle;

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

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

**(3)**

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

**(B)** The secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor shall maintain the original statement for a period of not less than two years.

**(C)** Within 48 hours of each day's close of business, the secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor who purchases or receives motor vehicles for scrap or for parts shall deliver by

electronic means, a list of all such vehicles purchased that day for scrap or for parts. That list shall contain the following information:

- (i) The name, address, and contact information for the reporting entity;
- (ii) The vehicle identification numbers of such vehicles;
- (iii) The dates such vehicles were obtained;
- (iv) The names of the individuals or entities from whom the vehicles were obtained, for use by law enforcement personnel and appropriate governmental agencies only;
- (v) A statement of whether the vehicles were, or will be, crushed or disposed of, or offered for sale or other purposes;
- (vi) A statement of whether the vehicle is intended for export out of the United States; and
- (vii) The National Motor Vehicle Title Information System identification number of the business acquiring the vehicle.

There shall be no charge to a secondary metals recycler, used motor vehicle parts dealer, or scrap metal processor associated with providing this information to the department.

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

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

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

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

**(4)**

**(A)** The registered owner of any motor vehicle which is damaged to the extent that its restoration to an operable condition would require the replacement of the front clip assembly, which includes the fenders, hood, and bumper; the rear clip assembly, which includes the quarter panels, the floor panel assembly, and the roof assembly, excluding a soft top; the frame; and a complete side, which includes the fenders, door, and quarter panel shall mail or deliver the certificate of title to the commissioner for cancellation.

**(B)** A motor vehicle owner who retains possession of a damaged vehicle which is a salvage motor vehicle as defined in paragraph (11) of Code Section 40-3-2 shall surrender the license plates and registration for such vehicle, shall not operate such vehicle upon the roads of this state, and shall not sell, trade, or otherwise dispose of such vehicle prior to obtaining a salvage certificate of title for such vehicle.

**(C)**

**(i)** Any insurance company which acquires a damaged motor vehicle by virtue of having paid a total loss claim shall deliver by electronic means the certificate of title to the commissioner for cancellation. If an insurance company or its authorized agent, including, but not limited to, a salvage dealer as such term is defined in Code Section 40-11-13, is unable to obtain a certificate of title within 30 days after acceptance by the motor vehicle owner of a total loss claim, the insurance company or its authorized agent may apply to the department for a salvage certificate of title on a form provided by the department for such purpose. Such application shall require submission by electronic means of evidence that the insurance company or its authorized agent has fulfilled the settlement through payment of a total loss claim and has made two or more written or other verifiable forms of

communication with the owner in order to obtain such owner's certificate of title. Any such application made by a salvage dealer shall also include written documentation of support that an insurance company has transferred all its claims or rights to such vehicle to the salvage dealer. Any salvage certificate of title issued by the department pursuant to this subdivision shall comply with any applicable requirements relating to salvage, rebuilt, or restored certificates of title in this Code section and Code Section 40-3-37.

**(ii)** In every case in which a total loss claim is paid and the insurance company does not acquire such damaged motor vehicle, the insurance company paying such total loss claim, the vehicle owner, and the lienholder or security interest holder, as applicable, shall take the following steps to secure a salvage certificate of title for such motor vehicle:

**(I)** If the vehicle owner is in possession of the certificate of title, the owner shall deliver the certificate of title to the insurance company prior to any payment of the claim, and the insurance company shall deliver by electronic means the certificate of title, an application for a salvage certificate of title, and the form provided by the commissioner for issuance of a salvage certificate of title;

**(II)** If the certificate of title has been lost, destroyed, or misplaced, the vehicle owner shall, prior to payment of the claim on such vehicle, complete an application for a replacement title on the form provided by the commissioner and deliver such application and form to the insurance company and the insurance company shall deliver by electronic means such application and form to the commissioner for issuance of a replacement original title marked salvage;

**(III)** If the lienholder or security interest holder has possession of the certificate of title, the vehicle owner shall complete an application for a replacement title on a form provided by the commissioner and shall deliver the completed form to the insurance company prior to the payment of the claim; the insurance company shall thereafter deliver by electronic means the application to the commissioner with notice of the payment of the total loss claim and the name and address of the lienholder or security interest holder in possession of the title. The commissioner shall mail notice to the lienholder or security interest holder that a total loss claim has been paid on the vehicle and that the title to such vehicle has been canceled, and the commissioner shall provide to the lienholder or security interest holder a salvage certificate of title for such vehicle, provided that the validity of the security interest shall not be affected by issuance of a salvage certificate of title. The lienholder or security interest holder shall, within ten days after receipt of such notice of total loss claim and cancellation of the original certificate of title, deliver by electronic means the canceled original certificate of title to the commissioner; or

**(IV)** For the sole purpose of payment of a total loss claim, for any vehicle ten years of age or older for which neither the vehicle owner nor the lienholder or security interest holder, if any, possesses a certificate of title, the vehicle owner shall deliver the vehicle license plate and certificate of registration for such vehicle to the insurance company prior to payment of any claim and the insurance company shall mail or deliver the license plate and deliver by electronic means the certificate of registration to the commissioner with a completed form provided by the commissioner; provided, however, that the vehicle owner shall not operate such vehicle and the owner shall obtain a certificate of title for such vehicle as provided by law, which certificate of title shall then be subject to cancellation as provided in this paragraph.

**(D)** The department shall give priority to the title submissions provided for in subparagraph (C) of this paragraph and shall issue a salvage certificate of title for such vehicles within seven days of receipt of such submissions by an insurance company.

**(a.1)** In the case of a motor vehicle which is subject to more than one perfected security interest or lien which motor vehicle is a total loss, if the insurer is to acquire title to the damaged motor vehicle, the holder of the senior security interest or lien, upon receipt of the settlement proceeds of the insurance policy in accordance with Code Section 33-34-9, shall apply for a new certificate of title for a transferee other than by voluntary transfer in accordance with subsection (b) of Code Section 40-3-35, naming the insurer only as transferee.

**(b)** Except as provided in subsection (a) of this Code section, any person, firm, or corporation which purchases or otherwise acquires a salvage motor vehicle shall apply to the commissioner by electronic means for a salvage certificate of title for such motor vehicle within 30 days of the purchase or acquisition of the motor vehicle or within 30 days of the payment of a total loss claim as provided in paragraph (4) of subsection (a) of this Code section to the registered owner of the salvage motor vehicle, if the person, firm, or corporation intends to operate or to sell, convey, or transfer the motor vehicle; and no such person, firm, or corporation shall sell,

transfer, or convey a salvage motor vehicle until such person, firm, or corporation has applied for and obtained a salvage certificate of title.

**(c)** The application for a salvage certificate of title shall be made in a manner to be prescribed by the commissioner.

**(d)** Any certificate of title which is issued to a salvage motor vehicle, as provided for in this Code section, shall contain the word "salvage" on the face of the certificate in such a manner as the commissioner may prescribe, so as to indicate clearly that the motor vehicle described is a salvage motor vehicle. The legend "rebuilt" in no larger than 12 point font shall be placed on a certificate of title to a vehicle which was declared a salvage vehicle and subsequently repaired with less than two major component parts to restore the vehicle to an operable condition.

**(e)** Notwithstanding this subsection and subsections (c) and (d) of Code Section 40-3-37, the legend "rebuilt" shall only be required to be placed on the certificate of title to a vehicle which was declared a salvage vehicle on or after July 1, 2004, and which was subsequently rebuilt.

**(f)** As an alternative to criminal or other civil enforcement, the commissioner, in order to enforce this Code section or any orders, rules, and regulations promulgated pursuant to this Code section, may issue an administrative fine not to exceed \$1,000.00 for each violation, whenever the commissioner, after a hearing, determines that any person has violated any provisions of this Code section or any regulations or orders promulgated under this Code section. The hearing and any administrative review thereof shall be conducted in accordance with the procedure for contested cases under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Any person who has exhausted all administrative remedies available and who is aggrieved or adversely affected by a final order or action of the commissioner shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50. All fines recovered under this subsection shall be paid into the state treasury. The commissioner may file, in the superior court (1) wherein the person under order resides; (2) if such person is a corporation, in the county wherein the corporation maintains its principal place of business; or (3) in the county wherein the violation occurred, a certified copy of a final order of the commissioner, whether unappealed from or affirmed upon appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and proceedings in relation thereto shall thereafter be the same as though the judgment had been rendered in an action duly heard and determined by the court. The penalty prescribed in this Code section shall be concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available to the commissioner with respect to any violation of this Code section or any order, rules, or regulations promulgated pursuant thereto.

**(g)** The Commissioner of Insurance is authorized to enforce the provisions of this Code section to the extent such provisions are applicable to insurers which are under the jurisdiction of the Department of Insurance. The Commissioner of Insurance is also authorized to cooperate with the commissioner in enforcing this Code section and to provide the commissioner with any information acquired by the Commissioner of Insurance during any investigation or proceeding involving this Code section. Nothing in this subsection shall be construed to limit the powers and duties of the commissioner to enforce the provisions of this Code section as such provisions apply to insurers.

**(h)** It shall be unlawful for any person, firm, or corporation to violate the provisions of subsection (a), (b), or (c) of this Code section; and any person, firm, or corporation convicted of violating such provisions shall be guilty of a misdemeanor. Any owner of a salvage motor vehicle who transfers or attempts to transfer such vehicle without obtaining a salvage certificate of title for such vehicle shall be guilty of a misdemeanor of a high and aggravated nature, punishable by a fine not to exceed \$5,000.00. Any lienholder or security interest holder who, after notice by the commissioner of payment of a total loss claim and cancellation of the title of a vehicle, fails or refuses to return the title to the commissioner or who surrenders the title to anyone other than the commissioner shall be guilty of a misdemeanor of a high and aggravated nature, punishable by a fine not to exceed \$5,000.00.

**(i)** The registered owner who retains possession of a salvage motor vehicle to whom a total loss claim has been paid shall promptly remove the license plate from such vehicle and return such plate to the commissioner for cancellation. An insurer which pays a total loss claim shall, on a form prescribed by the commissioner, notify



the owner of the duty to remove and return such license plate for cancellation and of all inspection requirements for rebuilding or restoring such vehicle.

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

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

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

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

## History

Ga. L. 1961, p. 68, § 20; Ga. L. 1965, p. 264, § 1; Ga. L. 1966, p. 139, § 1; Ga. L. 1970, p. 185, § 1; Ga. L. 1975, p. 1596, § 1; Ga. L. 1979, p. 1108, § 1; Ga. L. 1981, p. 644, §§ 2, 4; Code 1981, § 40-3-35; Ga. L. 1985, p. 1227, § 1; Ga. L. 1990, p. 8, § 40; Ga. L. 1990, p. 1657, § 5; Code 1981, §40-3-36, as redesignated by Ga. L. 1990, p. 2048, § 3; Ga. L. 1992, p. 2978, §§ 6, 7; Ga. L. 1993, p. 1260, § 7; Ga. L. 1998, p. 1179, § 35; Ga. L. 2000, p. 951, § 4-7; Ga. L. 2002, p. 848, § 2; Ga. L. 2004, p. 452, § 2; Ga. L. 2007, p. 585, § 1/ HB 171; Ga. L. 2007, p. 635, § 2/ HB 183; Ga. L. 2007, p. 652, § 12/ HB 518; Ga. L. 2011, p. 355, §§ .1, 21/ HB 269; Ga. L. 2011, p. 752, § 40/ HB 142; Ga. L. 2012, p. 96, § 1/ HB 900; Ga. L. 2012, p. 112, §§ 1-3, 1-4/ HB 872; Ga. L. 2013, p. 141, § 40/ HB 79; Ga. L. 2019, p. 337, § 1-99/ SB 132; Ga. L. 2019, p. 872, § 2/ HB 307; Ga. L. 2020, p. 493, § 40/ SB 429; Ga. L. 2021, p. 358, § 2/ HB 207.

## O.C.G.A. § 40-3-56

### 40-3-56. Satisfaction of security interests and liens.

(a)

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

(2) If the commissioner has entered into an agreement with such a security interest holder or lienholder to provide a means of delivery by secure electronic measures of a notice of the recording of such security interest or lien, at such time as the security interest or lien is released, by secure electronic measures, the certificate of title may be printed and mailed or delivered to the next lienholder or security interest holder or, if there is no other security interest holder or lienholder, to the owner without payment of any fee provided by Code Section 40-3-38.

(b) The owner may then forward the certificate of title, the release, the properly executed title application, and title application fee to the commissioner or the commissioner’s duly authorized county tag agent, and the commissioner or authorized county tag agent shall release the security interest or lien on the certificate or issue a new certificate and mail or deliver the certificate to the owner. If the satisfied security interest or lien is one reflected on the certificate of title but the certificate of title is in the custody of the first security interest holder or lienholder as provided by this chapter, the release may be handled as provided in Code Section 40-3-27, and Code Section 40-3-26 shall otherwise be complied with. In the event that the lienholder or security interest holder is no longer in business, an individual shall not be required to submit a release to secure a new certificate of title. The owner shall be required to present to the commissioner or authorized county tag agent certification from the appropriate regulatory agency that such lienholder or security interest holder is no longer in business.

(c) Except for liens and security interests listed on certificates of title for mobile homes, cranes, or vehicles which weigh more than 10,000 pounds gross vehicle weight, which shall be satisfied only in conformity with

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

## **History**

Ga. L. 1961, p. 68, § 25; Ga. L. 1962, p. 79, § 15; Ga. L. 1965, p. 304, § 8; Ga. L. 1985, p. 149, § 40; Ga. L. 1990, p. 2048, § 3; Ga. L. 1992, p. 2978, § 9; Ga. L. 1993, p. 1260, § 10; Ga. L. 1997, p. 739, § 23; Ga. L. 2012, p. 112, § 1-5/HB 872.