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Changes made by SB 60 – 2023 Secondary Metals Recyclers

During the 2023 Georgia Legislative Session, SB 60 by Sen. Bo Hatchett (R – Cornelia) was passed into law and signed by the Governor. The new law addresses three key policy areas for secondary metals recyclers. It makes improvements on catalytic converter theft, allows for limited cash payments, and enhances the secondary metals recycler registration process.

This legislation makes improvements to Georgia law relating to the purchase, possession, and sale of used and detached catalytic converters (O.C.G.A 10-1-351).

In addition, under the new law secondary metal recyclers will now be able to pay up to \$100.00 in cash for certain transactions starting on January 1, 2024, limited to two transactions per day, per person, per registered location (O.C.G.A 10-1-355). Secondary metals recyclers may not pay cash for any used detached catalytic converter or coils, used utility wire, used communications copper, copper wire, or a battery.

The new law also makes changes to the secondary metals recycler registration process with sheriffs (O.C.G.A. 10-1-359.1). New provisions include calendar year renewal of a secondary metals recycler registration, require proof of a current and valid business license (if applicable), a criminal background check and fingerprinting for registered agents registering for the first time, and the authority of the Sheriff's office to revoke or deny a registration if the recycler has been shut down in another county, has submitted false information or it has been determined by the criminal background check that the registered agent has been convicted of a felony metal theft offense in the previous five years under the secondary metals recycler law.

What is new in Georgia law under SB 60:

Defines Key Terms:

New definitions for various recycled materials have been added into Georgia law, as well as a clear definition of who is a registered agent.

- **Copper Wire:** any wires, cable, bus bars, or waveguides containing any portion of copper, whether or not coated with insulation.
- **Registered Agent:** 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.
- **Used communications copper:** 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.
- **Used, Detached Catalytic Converter:** 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. (O.C.G.A. §10-1-351(d))

Updates registration requirements:

Persons applying as registered agents for secondary metals recyclers are now required by the sheriff's office to pay a \$200.00 fee for a new or renewed registration beginning January 1, 2024 and annually by January 1 of each year. This cleans up the old registration process that was staggered and allowed sheriff's offices to charge up to \$200, but didn't require it.

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 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 for the January-December 2024 registration period. (Background check and fingerprinting would be required for the registered agent on any new application for a secondary metals recycler registration submitted on or after July 1, 2023. Local sheriff's offices should be consulted for procedures and locations for completing these requirements.)

Sheriff's offices may deny a new registration or renewal if registration has been revoked in another Georgia county, information on the application is determined to be untrue or false or it is determined by the criminal background check that the registered agent has been convicted of a felony metal theft conviction in the previous five years.

The registered agent of a secondary metals recycler is ineligible to obtain a new registration or renewed registration if a registered agent is under indictment for a felony metal theft law offense or has been convicted of a felony under Georgia metal theft laws in the past five years.

Sheriffs may revoke the registration of a secondary metals recycler if they have been convicted of a felony under the metal theft statute in the past five years.

Strengthens Metal Theft Law:

The bill would prohibit anyone from purchasing or advertising, or soliciting for the purchase of used, detached catalytic converters unless they are a fully compliant registered secondary metals recycler.

Metal theft laws will be strengthened to make it a felony for anyone who unlawfully obtains regulated metal that results in property damage exceeding \$1,500.00.

Each unlawfully possessed or obtained used, detached catalytic converter shall be considered a separate offense. Each stolen or not legally purchased or possessed used, detached catalytic converter will be considered contraband and subject to forfeiture alongside any vehicle used in the transportation of such catalytic converter. However, forfeiture of the vehicle used in the transportation of a used, detached catalytic converter shall be stayed during the pendency of the criminal proceedings.

Authorized entities permitted to sell, transport, or possess used detached catalytic converters 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.

To curb the sale of illegally possessed catalytic converters, every purchase of a used, detached catalytic converter by a secondary metals' recycler from an industrial account must be reported with record of receipt to the Georgia Bureau of Investigation database. The required information to report is the date of purchase, the name and address of the business from which it was purchased, the date/time/location of the transaction, and the number of detached catalytic converters or pounds of substrate purchased. An industrial account would cover any purchase that might otherwise be excluded under this code section.

Recyclers must also provide a statement to the Georgia Bureau of Investigation stating that their registration or business license has not been revoked in the previous year.

SB 60 limits individuals who can legally possess used detached catalytic converters to those who can provide verifiable documentation (i.e. receipt or work order) indicating the possession of the detached catalytic converter is the result of a replacement, or proof of ownership such as a title or registration. The bill limits businesses allowed to be in possession of detached catalytic converters to any new or used motor vehicle dealer, a used motor vehicle parts dealer, a motor vehicle repairer, secondary metals recyclers, or a manufacturer or distributor of catalytic converters. Businesses must be able to produce valid business licenses while in possession of the detached catalytic converters.

Business-to-business exemptions under the Regulated Metals Recycling Law no longer include transactions regarding used, detached catalytic converters. Alongside this change, to be classified as a seller under business-to-business exemptions you must now generate AND sell Regulated Metal Property in the ordinary course of business.

Cash Payment Program:

The new law will allow secondary metals recyclers to provide for limited cash payment on certain regulated metal beginning January 1, 2024 and expires on January 1, 2026. If all goes smoothly, GRA will work with policymakers to extend the date to allow recyclers to continue paying cash.

This will allow for recyclers to pay up to \$100.00 cash for many transactions and would be limited to two transactions per seller, per day, per registered secondary metals recycler location. Also, Electronic Transfers may include payment with a cash or prepaid debit card not redeemable on-site.

Cash is prohibited on any transaction that involves:

- Catalytic converters – including business to business transactions.
- Air conditioning coils
- Used utility wire
- Used communications copper
- Copper wire
- Battery

Please note: This document is designed as a resource to help in understanding changes made to Georgia regulated metals laws with the passage of Senate Bill 60 in 2023. It is not offered as legal advice nor meant to serve as a substitute for the advice of legal counsel. Please consult applicable laws regulating regulated metal property or consult with legal counsel regarding the law.

July 1, 2023