

SB 321 – HB 872 Comparison

<u>Issue</u>	<u>SB 321</u>	<u>HB 872</u>
DEFINITIONS		
Fixed Site	Definition of fixed site provided and referenced in bill for permitting	No definition of fixed site or reference to fixed site in bill
Person	Person definition changed from legal to business entity	Definition remains as legal entity
Personal ID Card	Definition remains the same	Changes “an appropriate” to “a current” and defines issuer as federal government
Regulated Metal Property	Both bills add ferrous metals, aluminum property, copper property and catalytic converter	
Secondary metals recycler	Changes “location” to “site” and adds “in this State”	Removes “from fixed location” adds “regularly” engaged and “in this state”
Definition of coil	Definition contains “including its tubing or rods	Tubing and rods wording not included
	Bills exclude self contained window A/C units and automobile condenser	
	Bills list same approved sellers of coils or documentation needed for individual	
Burnt Copper	Bills include same definition of wire exposed to heat, charred or burned	
	Bills list same approved sellers of such copper or documentation for individual	
RECORDS		
Adds digital photograph of material	Defines as “in a clear , undistorted manner”	Defines as in a “reasonably clear manner”
Copy of check or voucher	Adds required copy of check or voucher or documentation of electronic funds transfer	Does not require
Statement of ownership or entitled to sell	Uses term “signed and sworn affidavit	Remains “a signed statement” Changes “receiving consideration in the purchase transaction” to “selling the regulated property”
Adds requirement for document stating person selling understands definition of a secondary recycler and who they can legally sell to	Document is a signed and sworn affidavit	Document is a signed statement
	Includes “from a fixed site or otherwise”	No fixed site language
	Recycler “is holder of a valid permit issued”	Recycler “has registered”
Requires scanned or photocopied copy of valid personal ID	of the person delivering	Of the person delivering AND of the person selling
Image of seller	A photograph, videotape, or digital recording depicting recognizable facial image of person which can be stored and transferred	No facial image requirement
Personal ID card number	Requirement remains to record distinctive number from ID of person delivering	Requires scanned or photocopied copy of valid ID of person delivering. This combined with earlier item provides requirement of copies from both seller and person delivering

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Copy of documentation and permits	Adds requirement of copies of documentation, reports and licenses required to sell coils and heated copper	No requirement
	Adds requirement of copy of sheriff issued permits	No requirement - bills calls for registration, not permit
Information retained and provided to the sheriff	Language differs between bills due to differences regarding permit vs. registration	
False Statement	It shall be unlawful to make a false statement in executing the affidavit	No requirement since there is no affidavit requirement
PAYMENT OPTIONS		
Recycler shall pay only by	Check, voucher or electronic funds transfer. Voucher option only for individual seller. Not an employee or authorized agent	Check or electronic funds transfer. No voucher provision
Waiting period	14 days	No waiting period
Delivery Method	Electronic funds transfer after waiting period. Voucher and check by mail only	No delivery restrictions
Unlawful for recycler to cash check	No provision	Recycler prohibited from redemption or cashing of check. Fine no less than \$1000
Business to business	Removes business to business exemption	Keeps Business to business exemption
MISC		
Sell of battery	Provides explicit exemption for the purchase of any battery	
Hours of operation	Unlawful to operate between 7:00 p.m. – 7:00 a.m.	Keeps current law using 9:00 p.m. – 6:00 a.m.
Forfeiture and seizure	In 10-1-357.2 - inserts forfeiture and seizure definitions and procedures	In 10-1-357.1 – Provides definition of proceeds, property and contraband by pointing to code section 16-13-49
PENALTIES		
Definition of Penalties	1 st offense misdemeanor 2 nd offense misdemeanor of a high and aggravated nature 3 rd and subsequent offence – felony punishable between 1-5 years	Consistent w/existing law based on value of property plus repair cost exceeding \$500.00 is a felony punishable 1-5 years, fine of not more than \$5000.00 or both. 10-1-357(d) Explicit exemption for violation of payment method and registration requirement in this section
Violation of permit and registration	10-1-358(c) – Violating permit requirements shall be guilty of a misdemeanor of a high and aggravated nature. Each violation shall constitute a separate offence	10-1-359 – Violation of registration requirements shall be guilty of a misdemeanor of a high and aggravated nature. Each violation shall constitute a separate offence

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Payment options	Payment violations are not exempted	10-1-357 (d) – Exempts payment violation from standard penalty – Does not appear to have a penalty associated with violation of payment requirement
Liability	Both bills hold buyer and seller liable for full value of regulated metal property, repairs, and related expense plus court costs and reasonable attorney fees	
	No statement	Adds: shall be liable “in a civil action” to any person
		As stated with penalties – states that penalties and liabilities shall not apply to section 10-1-352.1 regarding payment methods and 10-1-359 regarding registration requirements
PREEMPTION		
Supersede or preemption of local rules	Bill states “article shall be supplementary to local regulation and not supersede or preempt”	Preemption language is the same as existing law except where political subdivisions enact laws that : Affect land use and zoning related to recyclers Impose occupational taxes and regulatory fees
REGISTRATION		
Registration Requirements	10-1-358 calls for valid permit	section 10-1-359 calls for proper registration
	required where fixed site is located	No reference to fixed site Required where recycler business is “located”
	Database through GBI	Database through Sec of State
	Valid for 12 months	Valid of calendar year renewed no later than Jan 1 of each year
BURIAL OBJECTS		
Burial Objects	<p>Adds code section 168-22 to: Define burial object</p> <p>States only licensed funeral directors, registered cemetery owners, burial object manufacturers and distributors can sell burial objects</p> <p>Seller and negligent purchaser guilty of felony punishable by not fewer than 5 years</p>	No burial object language

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SCRAP VEHICLES		
Check for secured interest or lien	Both bills call for use of on-line method to certify the vehicle is not currently subject to secured interest or lien once Commissioner has established and made available such and on-line method	
Trailer or semi-trailer	No trailer or semi-trailer provision	Provisions of this code apply to trailers or semi-trailers unless owner signs a sworn statement that vehicles worthless than \$1700 and is 12 model years old. This applies if owner has not obtained or lost title
All remaining language regarding scrap vehicles appear to be the same SB 321 and HB 872		