

SENATE BILL 60

As a result of Senate Bill 60, several changes to Georgia's secondary metal recycler statutes will become effective 07/01/23.

The purpose of this document is to highlight some of those changes.

The actual bill can be viewed on the Georgia General Assembly's website [here](#).

Introduction

SB 60 was a measure sponsored by Senator Bo Hatchett (Clarkesville), one of Governor Kemp's floor leaders, during the 2023 Legislative Session. The bill passed and was signed into law by Governor Kemp on 04/26/23. Its intent is to combat the rise in catalytic converter thefts through stronger penalties, and to eliminate bad actors from the recycling industry through enhanced registration requirements.

Stronger penalties

SB 60 prohibits any unauthorized person from purchasing, advertising, or soliciting for purchase any used, detached catalytic converter.

Persons authorized to sell, transport, or possess used detached catalytic converters under Georgia law are limited to the following:

- ✓ Registered secondary metal recyclers;
- ✓ Licensed new and used motor vehicle dealers;
- ✓ Used motor vehicle parts dealers;
- ✓ Vehicle repair shops;
- ✓ Manufacturers or distributors of new catalytic converters; or,
- ✓ Individuals with verifiable ownership documentation (*such as a receipt or work order and proof of ownership of the vehicle from which the catalytic converter was replaced, such as the vehicle registration or certificate of title for the vehicle*).

It also makes it a felony if anyone causes property damage in excess of \$1,500 during the commission of a secondary metal theft.

SB 60 allows each unlawfully possessed or obtained used, detached catalytic converter to be charged as separate criminal offenses and considers each to be contraband, subject to seizure and civil forfeiture.

It also allows law enforcement to seize any vehicle used in the unlawful transport of a used, detached catalytic converter; provided, however, that forfeiture proceedings shall be stayed during the pendency of the criminal case.

New Legal Terms

SB 60 introduces several new legal terms, including **used communications copper**, **used utility wire**, and **used detached catalytic converter**. Each is defined in the bill.

Perhaps the most significant new term is **registered agent**.

In short, a registered agent is the person who signs the registration form and presents it in person to the sheriff's office.

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A registered agent may be the same person as the secondary metal recycler or it could be two different individuals, particularly if the secondary metal recycler is a legal entity such as a business, partnership, or corporation.

Registration fees

Under current law, the registration fee can be up to \$200. SB 60 removed the wording “up to”, making the registration fee \$200. This does not include the fee for the fingerprint background check, which cannot exceed \$75.

All fees are non-refundable and should not be prorated for partial terms.

**REMINDER: Remit \$100
of the \$200 registration
fee to GSA.**

New Periods of Registration

Currently, registrations are valid for 12 months from date of issuance.

Under SB 60, this will change beginning 01/01/24 to terms of (up to) 12 months with fixed expiration dates of 12/31/XX.

Beginning 01/01/24, and for each term thereafter, registrations must be renewed annually on or before 12/31/XX.

This means on or after January 1, 2004, every registration issued will expire on 12/31 of the same year it was issued.

Example: If a new registration is issued 06/01/24, it will expire 12/31/24.

All existing registrations as of 07/01/23, regardless of their expiration dates, will have to be renewed on or before 12/31/23 in order to implement the new fixed terms. If an existing secondary metal recycler misses the 12/31/23 renewal deadline, their registered agent will be treated as a new applicant when they attempt to renew. Also, any registration that is expired as of July 1, 2023, or following any term thereafter, will be treated as a new application

GSA and GRA have agreed that registrations issued between 07/01/23 and 12/31/23 will expire on 12/31/24 in order to make implementation of SB 60 more efficient.

New Background Requirements

Under SB 60, only those persons applying as a new registered agent on or after 07/01/23 are subject to a fingerprint background check. Registered agents for existing secondary metal recyclers as of 07/01/23 are exempt from the fingerprint background check, unless their registration is expired.

In addition, registered agents are not subject to a fingerprint background check when renewing their registration annually, unless their registration is expired.

By law, the fee for fingerprinting cannot exceed \$75, and it is the responsibility of the registered agent to pay. The background check is Georgia Only, under purpose code “E”, and Sheriffs have the discretion to do the fingerprinting or to refer the applicant to GAPS.

According to the sponsor of the bill, it was not his legislative intent that registered agents for existing secondary metal recyclers, nor those renewing annually, to be subject to fingerprint background checks. GSA does not agree with this interpretation of the bill, nor does our general counsel, and we will be seeking a legislative change next Session to require that all registered agents undergo a criminal background check annually.

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A registered agent is not eligible to obtain a NEW registration or an annual RENEWAL if:

The registered agent is under indictment for a felony offense of violating any of the statutes pertaining to secondary metal recyclers (i.e. O.C.G.A. §§ 10-1-350 through 10-1-359.5)

—OR—

The registered agent has a felony conviction in the past five (5) years for violating any of the statutes pertaining to secondary metal recyclers (i.e. O.C.G.A. §§ 10-1-350 through 10-1-359.5).

In addition, the Sheriff is authorized to...

- **DENY** a new registration or annual renewal if the secondary metal recycler's registration has been revoked in another Georgia county, or they have falsified any information on the registration form.
- **REVOKE** the registration of a registered agent if the registered agent has been convicted of a felony in the previous five (5) years for violating any of the statutes pertaining to secondary metal recyclers (i.e. O.C.G.A. §§ 10-1-350 through 10-1-359.5). Revocations will be reflected in LeadsOnline.
- **REQUIRE** the registered agent to:
 - Sign a sworn statement that their registration or business license has not been revoked during the previous year, and that they have not been convicted of a metal theft offense in the previous year;
 - Provide a copy of a current and valid business license or occupational tax certificate as may be required by your county; and,
 - Provide their GBI LeadsOnline Customer ID number on the registration form.

Does a new registered agent of a secondary metal recycler with business locations in multiple counties have to be fingerprinted in each county? Yes.

What if the registered agent of a secondary metal recycler changes during the term of registration? This is not specifically addressed in SB 60; however, GSA and GRA have agreed that in these cases, the recycler will be required to notify the Sheriff in each county where the registered agent was registered and the new registered agent must undergo a fingerprint background check.

Purchase Transaction Database

Effective 07/01/23, recyclers must report 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.

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

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

Exempted Transactions

Under SB 60, business-to-business transactions between manufacturing, industrial, or other commercial vendors that generate **AND** sell regulated metal property in the ordinary course of business are exempt from the purchase restrictions of regulated metal property, ***UNLESS it involves used, detached catalytic converters. Used, detached catalytic converters are excluded from the business-to-business exemption.***

NOTE: Transactions between Georgia secondary metals recyclers are not exempt transactions under the business-to-business exception.

Cash Payment Pilot

Beginning 01/01/24, secondary metal recyclers will be allowed to pay cash for certain transactions involving regulated metals. This provision will sunset on 01/01/26.

Cash transactions are limited to \$100.00, and only two transactions per seller, per day, per registered secondary metal recycler location are allowed.

Electronic transfers may include payment with cash or a prepaid debit card that is not redeemable on-site.

Payment in cash is prohibited on any transaction that involves the following:

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

Disclaimer

The intent of this summary is to offer a general overview of SB 60. No summary, including this one, is perfect. Therefore, it should not be a substitute for reading the actual text of the Bill.

Addition resources

[Georgia Recyclers Association](#)

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Acronyms

GRA – Georgia Recyclers Association

GSA – Georgia Sheriffs' Association

There appears to be a conflict in SB 60 regarding background requirements. GSA and GRA agree that there is a conflict between lines 313-317 and 336-339 in the bill. This is a matter that will have to be reconciled during the next legislative Session. In the interim, GSA and GRA have agreed that the requirements outlined in lines 336-339 will be controlling:

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

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ISSUE DATES, TERMS, AND BACKGROUND REQUIREMENTS

Registrations issued prior to 07/01/23

- Regardless of expiration date, all registrations issued prior to 07/01/23 must be renewed on or before 12/31/23, including payment of the \$200 registration fee, which will not be prorated. All requirements mandated by SB 60 must be met, *except for fingerprinting and the background check*, unless the secondary metal recycler's registration is expired, in which case it will be treated as a new registration.

Registrations issued 07/01/23 – 12/31/23

NEW

- Subject to all new requirements mandated by SB 60, including the fingerprint background check. If approved, registration will expire 12/31/24.

RENEWAL

- Subject to all new requirements mandated by SB 60, except for the fingerprint background check, unless the secondary metal recycler's registration is expired, in which case it will be treated as a new registration. If approved, registration will expire 12/31/24.

EXPIRED

- Registrations expired as of 07/01/23 will be treated as new registrations.

Registrations issued on or after 01/01/24

NEW

- Subject to all new requirements mandated by SB 60, including the fingerprint background check. If approved, registrations will expire 12/31/XX of same year issued. Fees will not be prorated.

RENEWAL

- Renewals must occur prior to January 1st of each year. Subject to all new requirements mandated by SB 60, except for the fingerprint background check, unless the secondary metal recycler's registration is expired, in which case it will be treated as a new registration. If approved, registrations will expire on 12/31/XX of the same year issued. Fees will not be prorated.

When processing renewals, make sure the registered agent hasn't changed! If it is a new registered agent, they must be fingerprinted and undergo a background check.
