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February 24, 2017

Battery Council International
c/o David B. Weinberg
Wiley Rein, LLP
1776 K Street, NW
Washington, D.C. 20006

RE: Georgia HB 310 – Batteries Purchased for Recycling

Dear Mr. Weinberg,

The Institute of Scrap Recycling Industries, Inc. (ISRI) has concerns with the current version of HB 310, relating to the recycling and sale of batteries in Georgia, and would like to open discussions with your client Battery Council International (BCI) to understand the underlying rationale for BCI's advocacy in support of this legislation, which ISRI does not believe to be solely for the purposes of encouraging the recycling of lead-acid batteries.

ISRI is the "Voice of the Recycling Industry" representing approximately 1,300 companies operating in nearly 4,000 locations in the U.S. and 34 countries worldwide that process, broker, and consume scrap commodities, including metals, paper, plastics, glass, rubber, electronics, and textiles. With headquarters in Washington, DC, ISRI provides education, advocacy, safety and compliance training, and promotes public awareness of the vital role recycling plays in the U.S. economy, global trade, the environment and sustainable development. Generating more than \$105 billion annually in U.S. economic activity, the scrap recycling industry provides nearly half a million Americans with good jobs.

ISRI certainly appreciates the efforts and commitment of BCI to promote recycling of lead-acid batteries and we have no objections to the existing statute in Georgia requiring retailers and garages to accept batteries from consumers for recycling at the point of sale. In fact, ISRI was involved in and supportive of the early legislative efforts to encourage battery recycling at a time when there was little recycling value in those items. If there was any indication that legislative clarification was needed to ensure the practice continued, ISRI would support efforts to solidify this existing law. The current legislation pending in Georgia, however, is not solely what advocates in Georgia are purporting it to be so ISRI feels compelled to intervene.

There are two major objections that ISRI has with the Georgia legislation H.B. 310 relating to batteries purchased for recycling: 1) the legislation thwarts law enforcement efforts to locate and arrest thieves who steal and try to sell used batteries for recycling, and 2) the legislation

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creates an ill-advised exemption for retailers and garages to escape the regulatory requirements imposed on all other secondary metals recyclers who purchase batteries, which is an unfair trade practice that ISRI cannot ignore.

Contrary to statements from BCI to the Georgia Bureau of Investigations, there is no statutorily-mandated recycling transaction requiring retailers to purchase used batteries from consumers. In fact, it is the retailers' choice on whether to pay the consumer for returned batteries. The mandate in O.C.G.A. § 12-8-28 requires only that retailers to accept batteries. To be clear, there is no requirement for retailers to pay compensation for those batteries.

ISRI understands that BCI may not be as familiar with state laws pertaining solely to metals theft prevention and suggests that perhaps some clarification may help. Following years of collaborative efforts with law enforcement, public interest groups, and the recycling industry, the state of Georgia enacted a strict law that governs recycling operations in a manner designed to assist law enforcement with crack-down on metals theft. O.C.G.A. § 10-1-359. This law requires specific recordkeeping and reporting obligations for the sole purpose of providing law enforcement with the data it needs to investigate and arrest thieves stealing metals.

The Georgia secondary metals recycling law is comprehensive in nature and very specific on what materials it covers and what entities are regulated under it. Any person who pays compensation for items and metals identified in the statute for recycling is defined as a Secondary Metals Recycler and is subject to the statute. Secondary Metals Recyclers have always been defined in statute as any person paying compensation for these materials. This language has survived numerous amendments and revisions to the law. ISRI supports law enforcement's efforts to fight metals theft and agrees that any and all persons who purchase regulated items should comply with the law. In Georgia, this includes the purchase of batteries.

The current language in Georgia H.B. 310 creates a loophole for battery theft to continue. Specifically, the current language would allow thieves to steal batteries and return them to a battery retailer for compensation in the form of store credit or a discount without having to get their photo taken, their driver's license number written down and the information uploaded to the state's GBI database for metal theft. In a recent battery theft case in Athens, police caught the thief due to information they received from the GBI database.

The loophole in H.B. 310 also creates an unfair competitive advantage to retailers that is unacceptable. Allowing retailers to conduct identical activities without the compliance requirements of their competitors is anti-competitive and bad policy. Under Georgia law, if a person pays compensation for a used battery, that person is required to comply with O.C.G.A. §

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10-1-359, no exceptions. Yet, BCI in Georgia wants to carve out an exemption for retailers and ISRI is concerned of how BCI is misrepresenting the facts on this issue in Georgia.

I am writing to inform you that ISRI will strenuously oppose any and all efforts to circumvent the state's metals theft laws in Georgia and anywhere else. It is not acceptable to the legitimate recycling industry for entities to carve themselves out of compliance obligations simply because they do not want to be responsible and assist law enforcement as directed by law. It is my desire that we can work out a compromise.

To be clear, ISRI does not believe that battery retailers should have to register as secondary metals recyclers unless they pay compensation (store credit or a discount when a used battery is recycled) for a used battery. Therefore, we would like to work with BCI on compromise language that will exempt battery retailers from the secondary metals recycler law and also allow them to return the core deposit for the battery.

ISRI appreciates BCI's commitment to recycling lead-acid batteries in Georgia and elsewhere. We cannot, however, ignore the problems with the current language of H.B. 310, and I hope that our two organizations can come to an understanding on a compromise that will continue the positive efforts we both are dedicated to on behalf of battery recycling.

This is an extremely time sensitive matter with the Georgia legislative calendar and its "crossover" date of March 3. As such, I look forward to your immediate response.

Sincerely,

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