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Indicates New Matter

HOUSE AMENDMENTS AMENDED

May 13, 2009

**S. 184**

Introduced by Senators McConnell, Ford and Rankin

S. Printed 5/13/09--S. [SEC 5/14/09 12:55 PM]

Read the first time January 13, 2009.

**A** **BILL**

TO AMEND SECTION 40‑27‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A PERSON WHO BUYS JUNK, SO AS TO REQUIRE A PERSON WHO BUYS JUNK THAT CONSISTS OF TWENTY-FIVE POUNDS OF SCRAP METAL OR VEHICLE PARTS TO KEEP WITH THE RECORD OF PURCHASE A PHOTOCOPY OF THE SELLER’S DRIVER’S LICENSE OR OTHER GOVERNMENT ISSUED PICTURE IDENTIFICATION CARD THAT SHOWS THE SELLER’S NAME AND ADDRESS; TO AMEND SECTION 40‑27‑40, RELATING TO PENALTIES FOR VIOLATING PROVISIONS OF THE JUNK DEALER ARTICLE, SO AS TO INCREASE THE FINE FROM A MAXIMUM OF ONE HUNDRED DOLLARS TO FIVE HUNDRED DOLLARS AND TO ESTABLISH THAT EACH VIOLATION CONSTITUTES A SEPARATE OFFENSE; TO AMEND SECTION 56‑5‑5670, RELATING TO A DEMOLISHER PURCHASING OR ACQUIRING A VEHICLE TO DEMOLISH, SO AS TO REQUIRE A DEMOLISHER THAT ACQUIRES A VEHICLE OR VEHICLE PARTS WITH A TOTAL WEIGHT OF TWENTY-FIVE POUNDS OR MORE TO KEEP A PHOTOCOPY OF THE SELLER’S DRIVER’S LICENSE OR OTHER GOVERNMENT ISSUED PICTURE IDENTIFICATION CARD THAT SHOWS THE SELLER’S NAME AND ADDRESS AND TO ESTABLISH THAT A VIOLATION OF THOSE PROVISIONS IS A MISDEMEANOR WITH A FINE NO MORE THAN FIVE HUNDRED DOLLARS FOR EACH OFFENSE OR NOT EXCEEDING FIVE THOUSAND DOLLARS FOR THE SAME SET OF TRANSACTIONS OR IMPRISONED FOR NO MORE THAN SIXTY DAYS, WITH EACH VIOLATION CONSTITUTING A SEPARATE OFFENSE; AND TO AMEND SECTION 56‑5‑5945, RELATING TO A DEMOLISHER OBTAINING A VEHICLE TITLE, SO AS TO REQUIRE A DEMOLISHER WHO PURCHASES OR ACQUIRES A VEHICLE OR VEHICLE PART WITH A TOTAL WEIGHT OF TWENTY-FIVE OR MORE POUNDS TO KEEP A PHOTOCOPY OF THE SELLER’S DRIVER’S LICENSE OR OTHER GOVERNMENT PICTURE IDENTIFICATION CARD THAT SHOWS THE PERSON’S NAME AND ADDRESS AND THE YEAR, MAKE, MODEL, AND IDENTIFICATION NUMBER OF THE VEHICLE, IF AVAILABLE, ALONG WITH ANY OTHER IDENTIFYING FEATURES, AND TO PROVIDE A VIOLATION CONSTITUTES A MISDEMEANOR WITH A FINE NO MORE THAN FIVE HUNDRED DOLLARS FOR EACH OFFENSE OR NO MORE THAN FIVE THOUSAND DOLLARS FOR THE SAME SET OF TRANSACTIONS OR IMPRISONED FOR NO MORE THAN SIXTY DAYS, OR BOTH, AND TO ESTABLISH THAT EACH VIOLATION CONSTITUTES A SEPARATE OFFENSE.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑11‑523 of the 1976 Code, as last added by Act 260 of 2008, is amended to read:

“Section 16‑11‑523. (A) For purposes of this section, ‘nonferrous metals’ means metals not containing significant quantities of iron or steel, including copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum, a product that is a mixture of aluminum and copper, catalytic converters, and stainless steel beer kegs or containers.

(B) It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure any personal or real property, including any fixtures or improvements, for the purpose of obtaining nonferrous metals in any amount.

(C) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is one thousand dollars or less;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is more than one thousand dollars but less than five thousand dollars; or

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is five thousand dollars or more.

(D)(1) A person who violates the provisions of this section and the violation results in great bodily injury to another person is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years. For purposes of this subsection, “great bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2) A person who violates the provisions of this section and the violation results in the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(E)(1) A public or private ~~landowner or a possessor of land~~ owner of personal or real property is not civilly liable to a person who is injured during the theft or attempted theft, by the person or a third party, of nonferrous metals in any amount.

(2) A public or private ~~landowner or a possessor of land~~ owner of personal or real property is not civilly liable for a person’s injuries caused by a dangerous condition created as a result of the theft or attempted theft of nonferrous metals in any amount, of the ~~landowner or the~~ ~~possessor~~ owner when the ~~landowner or possessor~~ owner of personal or real property did not know and could not have reasonably known of the dangerous condition.

(3) This subsection does not create or impose a duty of care upon a ~~landowner or possessor of land~~ owner of personal or real property that would not otherwise exist under common law.”

SECTION 2. Section 16‑17‑680(F)(1), as added by Act 260 of 2008, is amended to read:

“(1) ‘Nonferrous metals’ means metals not containing significant quantities of iron or steel, including copper wire, cooper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum, a product that is a mixture of aluminum and copper, catalytic converters, and stainless steel beer kegs or containers.”

SECTION 3. Title 16 of the 1976 Code is amended by adding:

“Section 16‑17‑685. (A) For purposes of this section:

(1) ‘Nonferrous metals’ means metals not containing significant quantities of iron or steel, including copper wire, cooper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum, a product that is a mixture of aluminum and copper, catalytic converters, and stainless steel beer kegs or containers;

(2) ‘Transportation permit number’ means a number provided by a sheriff’s office by telephone, fax, or e‑mail to a person who requests a permit number for the transportation of nonferrous metals. In order to receive a transportation permit number, a person must provide the person’s name, address, and telephone number to the sheriff’s office of the county in which the person resides. The sheriff’s office must record the person’s information along with the transportation permit number. The transportation permit number is valid for no more than forty‑eight hours from the time the number is issued, and the sheriff’s office must inform the person of this restriction at the time the number is issued; and

(3) ‘Vehicle used in the ordinary course of business for the purpose of transporting nonferrous metals’ includes, but is not limited to, vehicles used by gas, electric, communications, water, plumbing, electrical, and climate conditioning service providers, and their employees, agents, and contractors, in the course of providing these services.

(B) It is unlawful for a person to transport or have in the person’s possession on the highways of this State nonferrous metals of an aggregate weight of more than twenty‑five pounds in a vehicle other than a vehicle used in the ordinary course of business for the purpose of transporting nonferrous metals, unless the person:

(1) has in the person’s possession a bill of sale signed by:

(a) a holder of a retail license for a business engaged in the sale of nonferrous metals or a mixture of nonferrous metals;

(b) an authorized wholesaler engaged in the sale of nonferrous metals or a mixture of nonferrous metals; or

(c) a registered dealer of scrap metals; or

(2) can present, either orally or in writing, a valid transportation permit number provided by the sheriff of the county in which the person resides.

(C) A bill of sale must clearly identify the material to which it applies, the name and address of the seller, the license plate information of the vehicle in which the material is delivered to the purchaser, identified by license plate number, year, and state of issue, the name and address of the purchaser, the date of sale, and the type and amount of nonferrous metals purchased.

(D) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days for a first offense. This offense is triable in magistrates court;

(2) misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both, for a second offense;

(3) misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both, for a third or subsequent offense. For an offense to be considered a third or subsequent offense, only those offenses which occurred within a period of ten years, including and immediately preceding the date of the last offense shall constitute a prior offense within the meaning of this section.”

SECTION 4. Section 40‑27‑10 of the 1976 Code of Laws is amended to read:

“Section 40‑27‑10. Any person buying junk shall keep a book ~~which~~ that he shall keep open to the inspection of all persons, wherein he shall set down the name and address, city and street, of every person selling junk and an itemized statement of all junk bought from such person and the date of purchase. Any person buying junk that consists of nonferrous metals, as defined by Section 16‑17‑680 is subject to the provisions of Section 16‑17‑680.”

SECTION 5. Section 40‑27‑30 of the 1976 Code is repealed.

SECTION 6. Section 40‑27‑40 of the 1976 Code of Laws is amended to read:

“Section 40‑27‑40. ~~Any~~ A person violating ~~any of the provisions~~ a provision of this article shall be fined ~~in~~ a sum not exceeding ~~one~~ five hundred dollars or imprisoned not exceeding thirty days. Each violation constitutes a separate offense.”

SECTION 7. Section 56‑5‑5670 of the 1976 Code is amended to read:

“Section 56‑5‑5670. (A) A demolisher who purchases or otherwise acquires a vehicle for purposes of wrecking, dismantling, or demolishing is not required to obtain a certificate of title for the vehicle in his own name. After the vehicle has been demolished, processed, or changed so that it physically is no longer a vehicle, the demolisher must surrender for cancellation the certificate of title, auction sales receipt, or disposal authority certificate. The Department of Motor Vehicles must issue forms, rules, and regulations governing the surrender of auction sales receipts, disposal authority certificates, and certificates of title as appropriate.

(B) A demolisher who purchases or otherwise acquires nonferrous metals as defined by Section 16‑17‑680 must comply with and is subject to the provisions of Section 16‑17‑680.

~~(B)~~(C) A demolisher must keep an accurate and complete record of all abandoned vehicles and vehicle parts with a total weight of twenty‑five pounds or more purchased or received by him in the course of his business. These records must contain the name and address of the person from whom ~~each~~ the vehicle or vehicle parts ~~was~~ were purchased or received, a photo or copy of the person’s driver’s license or other government issued picture identification card that legibly shows the person’s name and address, the date when the purchases or receipts occurred, and the year, make, model, and identification number of the vehicle or vehicle parts, if ascertainable, along with any other identifying features. The records are open for inspection by any police officer at any time during normal business hours. Any record required by this section must be kept by the demolisher for at least one year after the transaction to which it applies.

(D) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars for each offense not to exceed five thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than sixty days, or both. Each violation constitutes a separate offense.”

SECTION 8. Section 56‑5‑5850 of the 1976 Code is amended to read:

“Section 56‑5‑5850. (A) When any vehicle is left unattended on a highway or on other public or private property without the consent of the owner or person in control of the property, an officer may place a colored tag on the vehicle which is notice to the owner, the person in possession of the vehicle, or any lienholder that it may be considered to be derelict or abandoned and is subject to forfeiture to the State.

(B) The colored tag serves as the only legal notice that the vehicle will be moved to a designated place to be sold if the vehicle is not removed by the owner or person in control of the vehicle. The vehicle must be removed within the following times from the date the tag is placed on the vehicle:

(1) forty-eight hours if it is located on a highway, or

(2) seven days if it is located on other public or private property.

(C) A vehicle that has had at least two colored tags previously placed on it is an abandoned vehicle for purposes of this article and may be removed immediately by a law enforcement agency to a designated place to be sold.

(D) Abandoned or derelict vehicles must be disposed of pursuant to Sections 29-15-10 and 56-5-5635.”

SECTION 9. Section 56‑5‑5945 of the 1976 Code is amended to read:

“Section 56‑5‑5945. ~~(a)Any~~ (A) A demolisher who purchases or otherwise acquires a vehicle for purposes of wrecking, dismantling, or demolition shall not be required to obtain a certificate of title for such vehicle in his own name. After the vehicle has been demolished, processed, or changed so that it physically is no longer a vehicle, the demolisher shall surrender for cancellation the certificate of title or sales receipt issued under Section 56-5-5850.

(B) A demolisher who purchases or otherwise acquires nonferrous metals as defined by Section 16-17-680 must comply with and is subject to the provisions of Section 16‑17‑680.

~~(b)~~(c) A demolisher shall keep an accurate and complete record of all vehicles and vehicle parts with a total weight of twenty‑five pounds or more purchased or received by him in the course of his business. These records shall contain the name and address of the person from whom ~~each~~ the vehicle or vehicle parts ~~was~~ were purchased or received, a photo or copy of the person’s driver’s license or other government issued picture identification card that legibly shows the person’s name and address, ~~and~~ the date when such purchases or receipts occurred, and the year, make, model, and identification number of the vehicle or vehicle parts, if ascertainable, along with any other identifying features. The records shall be open for inspection by any law enforcement officer at any time during normal business hours. Any record required by this section shall be kept by the demolisher for at least one year after the transaction to which it applies.

(D) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars for each offense not to exceed five thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than sixty days, or both. Each violation constitutes a separate offense.”

SECTION 10. Section 57‑27‑20(a) of the 1976 Code is amended to read:

“(a) The term ‘junk’ shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, junked, dismantled, or wrecked automobiles, trucks and other motor vehicles, or parts ~~thereof~~ of them, iron, steel, and other old or scrap ferrous or nonferrous material.”

SECTION 11. Chapter 27, Title 57 of the 1976 Code is amended by adding:

“Section 57‑27‑57. It is unlawful for a junkyard owner to allow motor vehicles to be parked on a highway adjacent to its property.”

SECTION 12. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 13. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 14. This act takes effect upon approval by the Governor.

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