**South Carolina General Assembly**

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**H. 3758**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Rutherford

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Introduced in the House on February 24, 2011

Currently residing in the House Committee on **Judiciary**

Summary: Nonferrous metals

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/24/2011 House Introduced and read first time ([House Journal‑page 14](file:///h:\hj%20archive\2011\02-24-11.docx))

2/24/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 14](file:///h:\hj%20archive\2011\02-24-11.docx))

**VERSIONS OF THIS BILL**

[2/24/2011](file:///p:\pprever\2011-12\3758_20110224.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16‑17‑681 SO AS TO PROHIBIT THE PURCHASE OF CERTAIN METALS BY A SECONDARY METALS RECYCLER, PROVIDE EXCEPTIONS, AND PROVIDE A PENALTY; AND TO AMEND SECTION 16‑17‑680, AS AMENDED, RELATING TO THE PURCHASE OF NONFERROUS METALS, SO AS TO AMEND THE DEFINITION OF “NONFERROUS METALS”, AND FURTHER REGULATE THE PURCHASE OF NONFERROUS METALS.

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

SECTION 1. Article 7, Chapter 17, Title 16 of the 1976 Code is amended by adding:

“Section 16‑17‑681. (A) Notwithstanding the provisions of Section 16‑17‑680, a secondary metals recycler may not knowingly purchase the following types of scrap metal in its original manufactured form:

(1) metal manhole covers that are used to cover street or alley service personnel access entrances to municipal sewers and storm drains;

(2) brass or bronze valves or fittings that are commonly used on structures for access to water for the purpose of extinguishing fires;

(3) brass or bronze commercial potable water backflow preventer valves that are valves commonly used to prevent backflow of potable water into municipal domestic water service systems from commercial structures;

(4) water meters that are used for measurement of the use and consumption of domestic water;

(5) aluminum trench shoring that is commonly used for shoring below ground trenches and excavations for the construction of buildings and structures;

(6) aluminum loading ramps that are manufactured and used for loading motor vehicles for hauling the motor vehicles;

(7) aluminum or stainless steel beer or malt beverage kegs that are commonly used by brewers or producers for the sale and transportation of beer or malt beverages; or

(8) catalytic converters. For the purposes of this item, ‘catalytic converters’ means motor vehicle exhaust system parts that are used for controlling the exhaust emissions from motor vehicles and that contain a catalyst metal.

(B) This section does not apply to or prohibit the purchase or possession of the types of items listed in subsection (A) and that are acquired in transactions with industrial accounts or with authorized car dealerships.

(C) A person who violates a provision of this section is subject to the fines and penalties as provided in Section 16‑17‑680(D).”

SECTION 2. Section 16‑17‑680 of the 1976 Code, as last amended by Act 26 of 2009, is further amended to read:

“Section 16‑17‑680. (A)~~(1)~~ It is unlawful to purchase nonferrous metals in any amount from a person who is not a holder of a retail license or an authorized wholesaler unless the purchaser is a secondary metals recycler and obtains and can verify the name and address of the seller. A secondary metals recycler shall maintain a record containing the date of purchase, name and address of the seller, a photocopy of the seller’s identification, the license plate number of the seller’s motor vehicle, the seller’s photograph and thumbprint, a clear photograph or video, weight or length, and size or other description of the nonferrous metals purchased, amount paid for it, and a signed statement from the seller stating that he is the rightful owner or is entitled to sell the nonferrous metals being sold. All nonferrous metals that are purchased by and are in the possession of a secondary metals recycler and all records required to be kept by this section must be maintained and kept open for inspection by law enforcement officials or local and state governmental agencies during regular business hours. The records must be maintained for two years from the date of purchase. Inspection or seizure of the thumbprint required by this subsection only may be by a law enforcement official acting within the scope of his authority in response to a criminal search warrant signed by a judge of competent jurisdiction and served on the secondary metals recycler by the law enforcement official. Probable cause for the issuance of the search warrant must be based upon a theft specifically involving the transaction for which the thumbprint was given.

(B) Payment for nonferrous metals may be made by cash or check, except as otherwise provided in this subsection. The check may be mailed to the seller at the address provided pursuant to the requirements of subsection (A) on the seller’s identification, which may not be a post office box, or the cash or check may be collected by the seller from the secondary metals recycler on or after the third business day after the date of the sale. However, if the seller prefers to have the check for payment mailed to an alternative address other than the address appearing on his identification, the secondary metals recycler shall obtain a gas or electric bill addressed to the seller at the alternative address with a payment due date no more than two months before the date of the sale in addition to a copy of the seller’s identification required pursuant to the provisions of subsection (A). A secondary metals recycler may only purchase nonferrous metals for cash consideration from a fixed location.

(C)(1) ~~Whenever~~ When a law enforcement officer has reasonable cause to believe that any item of nonferrous metal in the possession of a secondary metals recycler has been stolen, the law enforcement officer may issue a hold notice to the secondary metals recycler. The hold notice must be in writing, be delivered to the secondary metals recycler, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the notice, and inform the secondary metals recycler of the information contained in this subsection. Upon receipt of the notice, the secondary metals recycler must not process or remove the items of nonferrous metal identified in the notice, or any portion thereof, from the secondary metal recycler’s place of business for fifteen calendar days after receipt of the notice unless released prior to the fifteen‑day period by the law enforcement officer.

(2) No later than the expiration of the fifteen‑day period, a law enforcement officer may issue a second hold notice to the secondary metals recycler, which shall be an extended hold notice. The extended hold notice must be in writing, be delivered to the secondary metals recycler, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the extended hold notice, and inform the secondary metals recycler of the information contained in this subsection. Upon receipt of the extended hold notice, the secondary metals recycler must not process or remove the items of nonferrous metal identified in the notice, or any portion thereof, from the secondary metals recycler’s place of business for thirty calendar days after receipt of the extended hold notice unless released prior to the thirty‑day period by the law enforcement officer.

(3) At the expiration of the hold period or, if extended, at the expiration of the extended hold period, the hold is automatically released and the secondary metals recycler may dispose of the nonferrous metals unless other disposition has been ordered by a court of competent jurisdiction.

(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.

(E) For purposes of this section, the only identification acceptable is a:

(1) valid South Carolina driver’s license;

(2) South Carolina identification card issued by the Department of Motor Vehicles;

(3) valid driver’s license from another state that contains the licensee’s picture on the face of the license; or

(4) valid military identification card.

(F) 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, or a product that is a mixture of aluminum and copper~~, catalytic converters, and stainless steel beer kegs or containers~~ and does not include the delineated list of certain metals prohibited by the provisions of Section 16‑17‑681.

(2) ‘Secondary metals recycler’ means any person who is engaged in the business of paying compensation for nonferrous metals that have served their original economic purpose, whether or not the person is engaged in the business of performing the manufacturing process by which nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.

(3) ‘Fixed location’ means any site occupied by a secondary metals recycler as the owner of the site or as a lessee of the site under a lease or other rental agreement providing for occupation of the site by a secondary metals recycler for a total duration of not less than three hundred and sixty‑four days.

(G) The provisions of this section do not apply to the purchase or sale of aluminum cans.

(H) This section preempts local ordinances and regulations governing the purchase or sale of nonferrous metals in any amount, except to the extent that such ordinances pertain to zoning or business license fees. This section shall not preempt the ability of a political subdivision of the State to enact ordinances or regulations pertaining to zoning or business license fees. Political subdivisions of the State may not enact ordinances or regulations more restrictive than those contained in this section.”

SECTION 3. This act takes effect upon approval by the Governor.

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