~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 18, 2012

**S. 1031**

Introduced by Senators Lourie, L. Martin, Elliott and Setzler

S. Printed 1/18/12--S. [SEC 1/19/12 12:01 PM]

Read the first time January 10, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1031) to amend Section 56‑5‑5660(E)(1) of the 1976 Code, relating to the application for and issuance of disposal authority certificates, to increase the age of a vehicle, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 56-5-5660 of the 1976 Code is repealed.

SECTION 2. Section 56-5-5670 of the 1976 Code is amended to read:

“Section 56-5-5670. (A)(1) Except as provided by subsection (D), a person, business, organization, or unit of government may not dispose of a vehicle to a demolisher or secondary metals recycler without:

(a) a valid title certificate for the vehicle in the person, business, organization, or unit of government’s name; or

(b) a valid auction sales receipt obtained pursuant to Section 56-5-5640 for the vehicle in the person, business, organization, or unit of government’s name.

(2) A person, business, organization, or unit of government who disposes of a vehicle to a demolisher or secondary metals recycler shall comply with the provisions of Section 56-19-480.

(B) A demolisher or secondary metals recycler 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~~ the demolisher or secondary metals recycler’s own name. After the vehicle has been demolished, processed, or changed so that ~~it~~ the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler ~~must~~ shall surrender for cancellation the certificate of title~~,~~ or auction sales receipt~~, or disposal authority certificate~~. The Department of Motor Vehicles ~~must~~ shall issue forms~~, rules,~~ and regulations governing the surrender of auction sales receipts~~, disposal authority certificates,~~ and certificates of title as appropriate.

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

(D)(1) A person, business, organization, or unit of government upon whose property or in whose possession is found an abandoned vehicle, or an owner of a vehicle whose title certificate is faulty, lost, or destroyed, may dispose of such vehicle to a demolisher or secondary metals recycler without the title certificate if the vehicle:

(a) is lawfully in the possession of the person, business, organization, unit of government, or owner;

(b) is twelve model years old or older;

(c) does not have a valid registration plate affixed to the vehicle; and

(d) has no engine or is otherwise totally inoperable.

(2) The person, business’ agent, organization’s agent, unit of government’s agent, or owner shall complete and sign a form affirming that the vehicle complies with the requirements of subsection (D)(1). The Department of Motor Vehicles shall develop the form in a manner prescribed by the working group established pursuant to subsection (F)(3). The form must, at a minimum, be in a format that will satisfy the National Motor Vehicle Title Information System’s reporting requirements in accordance with federal law, regulations, and rules.

(3) The demolisher or secondary metals recycler shall physically deliver or electronically transfer the completed and signed form to the Department of Motor Vehicles at the time of the transaction or no later than the end of the business day. The Department of Motor Vehicles shall develop, in a manner prescribed by the working group established pursuant to subsection (F)(3), a system to allow for the transmission of the form by electronic means, at no cost to the demolisher or secondary metals recycler, in lieu of physical delivery. If the form is transferred electronically, the demolisher or secondary metals recycler shall maintain the original form for a period of not less than two years.

(4) The information obtained by the Department of Motor Vehicles from the demolisher or secondary metals recycler must be reported to the National Motor Vehicle Title Information System in a format that will satisfy the requirements for reporting such information in accordance with federal law, regulations, and rules.

(E) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle from a person, business, organization, or unit of government who provides the demolisher or secondary metals recycler with a valid title certificate for the vehicle in the person, business, organization, or unit of government’s name or a valid auction sales receipt obtained pursuant to Section 56-5-5640 for the vehicle in the person, business, organization, or unit of government’s name may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle pursuant to subsection (D) shall not wreck, dismantle, demolish, or otherwise dispose of the vehicle until at least three business days after the transaction has taken place and the form has been submitted to the Department of Motor Vehicle pursuant to subsection (D).

(F)(1) The Department of Motor Vehicles shall develop and administer a scrap vehicle database. The purpose of the database is to:

(a) hold information regarding scrap vehicles submitted by demolishers and secondary metals recyclers;

(b) hold information regarding stolen vehicles submitted by law enforcement agencies;

(c) allow demolishers and secondary metals recyclers to access the database in order to determine if a vehicle is stolen or is owned by a different person, business, organization, or unit of government; and

(d) allow law enforcement agencies to access the database to determine if information regarding a stolen vehicle has been submitted by a demolisher or secondary metals recycler.

(2) Pursuant to the South Carolina Consolidated Procurement Code, the Department of Motor Vehicles may contract with a private provider to develop the database and a system of transmitting information from demolishers, secondary metals recyclers, and law enforcement agencies to the Department of Motor Vehicles. The Department of Motor Vehicles shall solicit and receive at least two bids on the contract before awarding the contract.

(3) The Department of Motor Vehicles shall convene a working group chaired by the Director of the Department of Motor Vehicles or the director’s designee for the purpose of assisting in the development of a form to be used for the disposal of vehicles to demolishers or secondary metals recyclers pursuant to this section, assisting in the development of a system to allow for the transmission of the form by electronic means, facilitating the implementation of the database, assisting in development of regulations pursuant to this section, and issuing recommendations based on periodic review of the form and the database by the working group. The working group must consist of representatives from the demolisher industry, secondary metals recycling industry, law enforcement agencies, the insurance industry, and other relevant agencies, organizations, or industries as determined by the director. The working group shall issue a report to the Department of Motor Vehicles twelve months after the form and database are implemented to evaluate the form and database’s effectiveness, and annually thereafter on or before October fifteenth of each year. The working group may issue recommendations for enhancements to the form and database.

(4) The Department of Motor Vehicles shall make the database available to demolishers, secondary metals recyclers, and law enforcement agencies at no cost.

(5) The database must include, at a minimum, the ability of:

(a) demolishers and secondary metals recyclers to determine if a vehicle has been stolen or is owned by a different person, business, organization, or unit of government prior to completing a transaction;

(b) demolishers or secondary metals recyclers to report to the Department of Motor Vehicles after a vehicle has been wrecked, dismantled, demolished, or otherwise disposed of;

(c) the Department of Motor Vehicles to check the information submitted by the demolishers and secondary metals recyclers against the Department of Motor Vehicles’ records; and

(d) law enforcement agencies to check the information submitted by the demolishers and secondary metals recyclers for the purposes of investigating stolen vehicles.

(6) No demolisher, secondary metals recycler, or law enforcement agency is liable for performing its duties pursuant to this subsection unless the demolisher, secondary metals recycler, or law enforcement agency commits a wilful and wanton act or omission.

(7) A law enforcement officer who learns of the theft of a vehicle not since recovered or of the recovery of a vehicle whose theft or conversion the officer knows or has reason to believe has been reported to the Department of Motor Vehicles shall report the theft or recovery to the Department of Motor Vehicles pursuant to Section 56-19-810. The information from such report must be entered into the database.

~~(C)~~(G)(1) A demolisher or secondary metals recycler ~~must~~ shall 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~~ the demolisher or secondary metals recycler in the course of ~~his~~ business. These records must contain:

(a) the demolisher or secondary metals recycler’s name and address;

(b) the name of the person entering the information;

(c) the name and address of the person, business, organization, or unit of government from whom the vehicle or vehicle parts were purchased or received~~,~~;

(d) 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~~,~~. If the vehicle or vehicle parts are being purchased or received from a business, organization, or unit of government, the demolisher or secondary metals recycler shall obtain a photo or copy of the business, organization, or unit of government’s agent’s driver’s license or other government issued picture identification card. If the demolisher or secondary metals recycler has a photo or copy of the person or agent’s identification on file, the demolisher or secondary metals recycler may reference the identification on file without making a photocopy for each transaction. If the person or agent has no identification, the demolisher or secondary metals recycler shall not complete the transaction;

(e) the date when the purchases or receipts occurred~~, and~~;

(f) the year, make, model, and identification number of the vehicle or vehicle parts, if ascertainable, along with any other identifying features;

(g) the amount paid for the vehicle or vehicle parts;

(h) a photo or video of the vehicle or motor vehicle parts;

(i) the tag number and a photo or video of the vehicle used to transport the vehicle or vehicle parts being purchased or received; and

(j) any forms required by this section.

(2) The records ~~are~~ must be open for inspection by any ~~police~~ law enforcement officer at any time during normal business hours. All vehicles on the demolisher or secondary metals recycler’s property or otherwise in the possession of the demolisher or secondary metals recycler must be available for inspection by any law enforcement officer at any time during normal business hours.

(3) Any record required by this section must be kept by the demolisher or secondary metals recycler for at least ~~one year~~ two years after the transaction to which it applies.

~~(D)~~(H)(1) A person who knowingly and willfully violates the provisions of this section for a first offense 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. For a second or subsequent offense, the person is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars for each offense not to exceed ten thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than three years, or both. Each violation constitutes a separate offense.

(2) A person who knowingly and willfully falsifies any information on a form required by this section is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars, or imprisoned for not less than one year nor more than three years, or both.

(3) In lieu of criminal penalties for a violation of this section by a demolisher or secondary metals recycler that is not willful, the Department of Motor Vehicle’s director may issue an administrative fine not to exceed one thousand dollars for each violation, whenever the director, after a hearing, determines that a person has violated any provisions of this section. The hearing and any administrative review must be conducted in accordance with the procedure for contested cases under the Administrative Procedures Act. The proceeds from the fine must be deposited in a special account separate and distinct from the Department of Motor Vehicle’s general funds to be used to offset the costs associated with implementing this section.

(I) A vehicle used to transport a vehicle or vehicle parts illegally disposed of in violation of this section may be seized by law enforcement and is subject to forfeiture; provided, however, that no vehicle is subject to forfeiture unless it appears that the owner or other person in charge of the vehicle is a consenting party or privy to the commission of the crime, and a forfeiture of the vehicle encumbered by a security interest is subject to the interest of the secured party who had no knowledge of or consented to the act. The seizure and forfeiture must be accomplished in accordance with the provisions of Section 56-29-50.”

SECTION 3. Section 56-5-5945 of the 1976 Code is amended to read:

“Section 56-5-5945. (A)(1) Except as provided by subsection (D), a person, business, organization, or unit of government may not dispose of a vehicle to a demolisher or secondary metals recycler without:

(a) a valid title certificate for the vehicle in the person, business, organization, or unit of government’s name; or

(b) a valid auction sales receipt obtained pursuant to Section 56-5-5640 for the vehicle in the person, business, organization, or unit of government’s name.

(2) A person, business, organization, or unit of government who disposes of a vehicle to a demolisher or secondary metals recycler shall comply with the provisions of Section 56-19-480.

(B) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle for purposes of wrecking, dismantling, or ~~demolition~~ demolishing shall not be required to obtain a certificate of title for the vehicle in ~~his~~ the demolisher or secondary metals recycler’s own name. After the vehicle has been demolished, processed, or changed so that ~~it~~ the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender for cancellation the certificate of title or auction sales receipt ~~issued under Section 56-5-5850~~. The Department of Motor Vehicles must issue forms and regulations governing the surrender of auction sales receipts and certificates of title as appropriate.

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

(D)(1) A person, business, organization, or unit of government upon whose property or in whose possession is found an abandoned vehicle, or an owner of a vehicle whose title certificate is faulty, lost, or destroyed, may dispose of such vehicle to a demolisher or secondary metals recycler without the title certificate if the vehicle:

(a) is lawfully in the possession of the person, business, organization, unit of government, or owner;

(b) is twelve model years old or older;

(c) does not have a valid registration plate affixed to the vehicle; and

(d) has no engine or is otherwise totally inoperable.

(2) The person, business’ agent, organization’s agent, unit of government’s agent, or owner shall complete and sign a form affirming that the vehicle complies with the requirements of subsection (D)(1). The Department of Motor Vehicles shall develop the form in a manner prescribed by the working group established pursuant to subsection (F)(3). The form must, at a minimum, be in a format that will satisfy the National Motor Vehicle Title Information System’s reporting requirements in accordance with federal law, regulations, and rules.

(3) The demolisher or secondary metals recycler shall physically deliver or electronically transfer the completed and signed form to the Department of Motor Vehicles at the time of the transaction or no later than the end of the business day. The Department of Motor Vehicles shall develop, in a manner prescribed by the working group established pursuant to subsection (F)(3), a system to allow for the transmission of the form by electronic means, at no cost to the demolisher or secondary metals recycler, in lieu of physical delivery. If the form is transferred electronically, the demolisher or secondary metals recycler shall maintain the original form for a period of not less than two years.

(4) The information obtained by the Department of Motor Vehicles from the demolisher or secondary metals recycler must be reported to the National Motor Vehicle Title Information System in a format that will satisfy the requirements for reporting such information in accordance with federal law, regulations, and rules.

(E) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle from a person’s, business’, organization’s, or unit of government who provides the demolisher or secondary metals recycler with a valid title certificate for the vehicle in the person, business, organization, or unit of government’s name or a valid auction sales receipt obtained pursuant to Section 56-5-5640 for the vehicle in the person, business, organization, or unit of government’s name may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle pursuant to subsection (D) shall not wreck, dismantle, demolish, or otherwise dispose of the vehicle until at least three business days after the transaction has taken place and the form has been submitted to the Department of Motor Vehicle pursuant to subsection (D).

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(a) hold information regarding scrap vehicles submitted by demolishers and secondary metals recyclers;

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(c) allow demolishers and secondary metals recyclers to access the database in order to determine if a vehicle is stolen or is owned by a different person, business, organization, or unit of government; and

(d) allow law enforcement agencies to access the database to determine if information regarding a stolen vehicle has been submitted by a demolisher or secondary metals recycler.

(2) Pursuant to the South Carolina Consolidated Procurement Code, the Department of Motor Vehicles may contract with a private provider to develop the database and a system of transmitting information from demolishers, secondary metals recyclers, and law enforcement agencies to the Department of Motor Vehicles. The Department of Motor Vehicles shall solicit and receive at least two bids on the contract before awarding the contract.

(3) The Department of Motor Vehicles shall convene a working group chaired by the director of the Department of Motor Vehicles or the director’s designee for the purpose of assisting in the development of a form to be used for the disposal of vehicles to demolishers or secondary metals recyclers pursuant to this section, assisting in the development of a system to allow for the transmission of the form by electronic means, facilitating the implementation of the database, assisting in development of regulations pursuant to this section, and issuing recommendations based on periodic review of the form and the database by the working group. The working group must consist of representatives from the demolisher industry, secondary metals recycling industry, law enforcement agencies, the insurance industry, and other relevant agencies, organizations, or industries as determined by the director. The working group shall issue a report to the Department of Motor Vehicles twelve months after the form and database are implemented to evaluate the form and database’s effectiveness, and annually thereafter on or before October fifteenth of each year. The working group may issue recommendations for enhancements to the form and database.

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(a) demolishers and secondary metals recyclers to determine if a vehicle has been stolen or is owned by a different person, business, organization, or unit of government prior to completing a transaction;

(b) demolishers or secondary metals recyclers to report to the Department of Motor Vehicles after a vehicle has been wrecked, dismantled, demolished, or otherwise disposed of;

(c) the Department of Motor Vehicles to check the information submitted by the demolishers and secondary metals recyclers against the Department of Motor Vehicles’ records; and

(d) law enforcement agencies to check the information submitted by the demolishers and secondary metals recyclers for the purposes of investigating stolen vehicles.

(6) No demolisher, secondary metals recycler, or law enforcement agency is liable for performing its duties pursuant to this subsection unless the demolisher, secondary metals recycler, or law enforcement agency commits a wilful and wanton act or omission.

(7) A law enforcement officer who learns of the theft of a vehicle not since recovered or of the recovery of a vehicle whose theft or conversion the officer knows or has reason to believe has been reported to the Department of Motor Vehicles shall report the theft or recovery to the Department of Motor Vehicles pursuant to Section 56-19-810. The information from such report must be entered into the database.

~~(C)~~(G)(1) A demolisher or secondary metals recycler ~~must~~ shall 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~~ the demolisher or secondary metals recycler in the course of ~~his~~ business. These records must contain:

(a) the demolisher or secondary metals recycler’s name and address;

(b) the name of the person entering the information;

(c) the name and address of the person, business, organization, or unit of government from whom the vehicle or vehicle parts were purchased or received~~,~~;

(d) 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~~,~~. If the vehicle or vehicle parts are being purchased or received from a business, organization, or unit of government, the demolisher or secondary metals recycler shall obtain a photo or copy of the business, organization, or unit of government’s agent’s driver’s license or other government issued picture identification card. If the demolisher or secondary metals recycler has a photo or copy of the person or agent’s identification on file, the demolisher or secondary metals recycler may reference the identification on file without making a photocopy for each transaction. If the person or agent has no identification, the demolisher or secondary metals recycler shall not complete the transaction;

(e) the date when the purchases or receipts occurred~~, and~~;

(f) the year, make, model, and identification number of the vehicle or vehicle parts, if ascertainable, along with any other identifying features;

(g) the amount paid for the vehicle or vehicle parts;

(h) a photo or video of the vehicle or motor vehicle parts;

(i) the tag number and a photo or video of the vehicle used to transport the vehicle or vehicle parts being purchased or received; and

(j) any forms required by this section.

(2) The records ~~are~~ must be open for inspection by any ~~police~~ law enforcement officer at any time during normal business hours. All vehicles on the demolisher or secondary metals recycler’s property or otherwise in the possession of the demolisher or secondary metals recycler must be available for inspection by any law enforcement officer at any time during normal business hours.

(3) Any record required by this section must be kept by the demolisher or secondary metals recycler for at least ~~one year~~ two years after the transaction to which it applies.

~~(D)~~(H)(1) A person who knowingly and willfully violates the provisions of this section for a first offense 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. For a second or subsequent offense, the person is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars for each offense not to exceed ten thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than three years, or both. Each violation constitutes a separate offense.

(2) A person who knowingly and willfully falsifies any information on a form required by this section is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars, or imprisoned for not less than one year nor more than three years, or both.

(3) In lieu of criminal penalties for a violation of this section by a demolisher or secondary metals recycler that is not willful, the Department of Motor Vehicles’ director may issue an administrative fine not to exceed one thousand dollars for each violation, whenever the director, after a hearing, determines that a person has violated any provisions of this section. The hearing and any administrative review must be conducted in accordance with the procedure for contested cases under the Administrative Procedures Act. The proceeds from the fine must be deposited in a special account separate and distinct from the Department of Motor Vehicles’ general funds to be used to offset the costs associated with implementing this section.

(I) A vehicle used to transport a vehicle or vehicle parts illegally disposed of in violation of this section may be seized by law enforcement and is subject to forfeiture; provided, however, that no vehicle is subject to forfeiture unless it appears that the owner or other person in charge of the vehicle is a consenting party or privy to the commission of the crime, and a forfeiture of the vehicle encumbered by a security interest is subject to the interest of the secured party who had no knowledge of or consented to the act. The seizure and forfeiture must be accomplished in accordance with the provisions of Section 56-29-50.”

SECTION 4. 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 5. Subsection (F)(3) of Section 56-5-5670 of the 1976 Code as contained in SECTION 2 and subsection (F)(3) of Section 56-5-5945 of the 1976 Code as contained in SECTION 3 take effect upon approval by the Governor. All other provisions of this act take effect ninety days after approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

JOEL LOURIE for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

Department of Motor Vehicles

The agency has indicated that enactment of this bill would have a one-time fiscal impact in the amount of $77,900 in implementation costs, including programming and training. If sufficient funds are not available, the agency will need to increase fees to cover these expenditures.

Department of Corrections

The department indicates that enactment of this bill will have a minimal impact on the General Fund of the State, which can be absorbed by the agency at their current level of funding.

Department of Probation, Parole and Pardon Services

The department indicates that enactment of this bill will have no fiscal impact on the General Fund of the State, or on federal and/or other funds.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 56‑5‑5660(E)(1) OF THE 1976 CODE, RELATING TO THE APPLICATION FOR AND ISSUANCE OF DISPOSAL AUTHORITY CERTIFICATES, TO INCREASE THE AGE OF A VEHICLE THAT MAY BE DISPOSED OF BY A DEMOLISHER WITHOUT A CERTIFICATE OF TITLE OR OTHER NOTICE REQUIREMENTS FROM EIGHT TO FIFTEEN YEARS; TO AMEND SECTION 56‑5‑5670(A), RELATING TO DUTIES OF DEMOLISHERS PRIOR TO DEMOLISHING A VEHICLE ABANDONED ON A HIGHWAY, TO ESTABLISH A FIFTEEN DAY WAITING PERIOD BEFORE A DEMOLISHER MAY WRECK, DISMANTLE, OR DEMOLISH A VEHICLE UNLESS THE DEMOLISHER IS PROVIDED WITH A CERTIFICATE OF TITLE, AN AUCTION SALES RECEIPT, A DISPOSAL AUTHORITY CERTIFICATE, OR AN AFFIDAVIT OF PROOF OF LAWFUL POSSESSION; TO AMEND SECTION 56‑5‑5670(D), RELATING TO PENALTIES FOR DEMOLISHERS THAT BREACH DUTIES ESTABLISHING IN THIS SECTION, TO INCREASE PENALTIES FOR VIOLATIONS OF SECTION 56‑5‑5670; TO AMEND ARTICLE 39, CHAPTER 5, TITLE 56, RELATING TO THE DISPOSITION OF ABANDONED MOTOR VEHICLES ON HIGHWAYS, BY ADDING SECTION 56‑5‑5680 TO PROVIDE FOR AN AFFIDAVIT OF LAWFUL POSSESSION THAT A DEMOLISHER MAY ACCEPT IN LIEU OF A CERTIFICATE OF TITLE, AN AUCTION SALES RECEIPT, OR A DISPOSAL AUTHORITY CERTIFICATE, TO PROVIDE FOR THE CONTENTS OF THE AFFIDAVIT, TO PROVIDE THAT IT IS FELONY TO KNOWINGLY PROVIDE FALSE INFORMATION IN THE AFFIDAVIT, TO REQUIRE A DEMOLISHER ACCEPTING AN AFFIDAVIT TO TRANSMIT THE INFORMATION CONTAINED IN THE AFFIDAVIT TO THE DEPARTMENT OF MOTOR VEHICLES, TO REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO REPORT THE INFORMATION TRANSMITTED BY THE DEMOLISHER TO THE NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM, AND TO PROVIDE PRESCRIBE THE APPROPRIATE USES OF THE INFORMATION; TO AMEND SECTION 56‑5‑5945, RELATING TO DUTIES OF DEMOLISHERS PRIOR TO DEMOLISHING AN ABANDONED OR DERELICT MOTOR VEHICLE FOUND ON PRIVATE PROPERTY, TO ESTABLISH A FIFTEEN DAY WAITING PERIOD BEFORE A DEMOLISHER MAY WRECK, DISMANTLE, OR DEMOLISH AN ABANDONED VEHICLE UNLESS THE DEMOLISHER IS PROVIDED WITH A CERTIFICATE OF TITLE, A SALES RECEIPT ISSUED PURSUANT TO SECTION 56‑5‑5850, OR AN AFFIDAVIT OF PROOF OF LAWFUL POSSESSION, AND TO INCREASE PENALTIES FOR VIOLATIONS OF SECTION 56‑5‑5945; AND TO REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO ESTABLISH A MECHANISM FOR THE ELECTRONIC TRANSMISSION OF THE INFORMATION REQUIRED UNDER THIS ACT AT NO CHARGE TO THE DEMOLISHER SUBMITTING THE INFORMATION.

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

SECTION 1. Section 56‑5‑5660(E)(1) of the 1976 Code is amended to read:

“(1) the vehicle is over ~~eight~~ fifteen years old;”

SECTION 2. Section 56‑5‑5670(A) of the 1976 Code is amended to read:

“(A)(1) A demolisher who purchases or otherwise acquires a vehicle for purposes of wrecking, dismantling, or demolishing that is still in working condition and that is not listed on the National Motor Vehicle Title Information System must hold the vehicle for fifteen calendar days before he may wreck, dismantle, or demolish it unless, at the time of purchase or acquisition, the demolisher is provided with the vehicle’s certificate of title free and clear of any encumbrances by the record owner, an auction sales receipt, disposal authority certificate, or an affidavit executed in the form provided in Section 56‑5‑5680. A demolisher who is provided with the vehicle’s certificate of title by the record owner, an auction sales receipt, disposal authority certificate, or an affidavit executed in the form provided in Section 56‑5‑5680 at the time of purchaser or acquisition is not subject to the fifteen day waiting period and may proceed with wrecking, dismantling, or demolishing the vehicle at his convenience.

(2) 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.

(3) 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.”

SECTION 3. Section 56‑5‑5670(D) of the 1976 Code is amended to read:

“(D)(1) A person who violates the provisions of this section:

(a) for a first offense, 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.

(b) for a second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, or imprisoned for not more than one hundred twenty days, or both; and

(c) for third and subsequent offenses, is guilty of a felony and, upon conviction, must be fined in the discretion of the court and imprisoned for not more than five years, or both.

(2) Each violation constitutes a separate offense.”

SECTION 4. Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑5680. (A) For the purposes of Section 56‑5‑5680 and Section 56‑5‑5945, a demolisher may accept an affidavit as proof of lawful possession of a vehicle in lieu of a certificate of title, an auction sales receipt, or a disposal authority certificate. The executed affidavit must include:

(1) a statement that the vehicle shall never be titled again, it must be wrecked, dismantled, or demolished;

(2) a description of the vehicle including the year, make, model, vehicle identification number, and color;

(3) the name, address, and driver’s license number of the person selling or transferring possession of the vehicle;

(4) a certification by the person selling or transferring possession of the vehicle that:

(a) he obtained title to the vehicle in his name, purchased the vehicle at auction, and was issued an auction sales receipt, or was issued a disposal authority certificate; and

(b) the certificate of title, auction sales receipt, or disposal authority certificate was lost or stolen;

(5) a certification by the person selling or transferring possession of the vehicle that the vehicle is at least fifteen years old;

(6) a certification by the person selling or transferring possession of the vehicle that the vehicle is not subject to any secured interest or lien;

(7) an acknowledgement by the person selling or transferring possession of the vehicle that the affidavit that he is executing will be filed with the Department of Motor Vehicles and that it is a felony to knowingly falsify any information contained in the affidavit.

(B) A person who knowingly falsifies any information contained in an affidavit executed pursuant to this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court and imprisoned for not more than five years, or both.

(C) Demolishers must maintain original affidavits executed pursuant to this section on file for a period of five years from the date of execution.

(D) A demolisher that accepts an affidavit executed pursuant to subsection (A) must mail a copy of the affidavit or electronically transmit the information contained in the affidavit to the department within seventy‑two hours of the completion of the transaction and request that the department cancel the certificate of title for the vehicle.

(E) Within forty‑eight hours of each day’s close of business, a demolisher shall electronically transmit to the department a list of vehicles purchased for wrecking, dismantling, or demolishing. The list shall contain the following information for each vehicle:

(1) the demolisher’s name, address, and contact information;

(2) the vehicle identification number;

(3) the name of the person from whom the demolisher purchased or otherwise acquired the vehicle for use by law enforcement and appropriate government agencies only;

(4) a statement concerning the disposition of the vehicle;

(5) the demolisher’s National Motor Vehicle Title Information System identification number.

(F) The department shall report the information obtained pursuant to subsection (C) to the National Motor Vehicle Title Information System, in accordance with 28 C.F.R. 25.56.

(G) The information obtained by the department pursuant to subsection (C) shall be made available to law enforcement agencies upon request and shall not be subject to the provisions contained in Chapter 4, Title 30. The department may utilize the information only to cancel certificates of title.”

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

“(A)(1) A demolisher who purchases or otherwise acquires a vehicle for purposes of wrecking, dismantling, or demolition that is still in working condition and that is not listed on the National Motor Vehicle Title Information System must hold the vehicle for fifteen calendar days before he may wreck, dismantle, or demolish it unless, at the time of purchase or acquisition, the demolisher is provided with the vehicle’s certificate of title by the record owner, a sales receipt issued pursuant to Section 56‑5‑5850, or an affidavit executed in the form provided in Section 56‑5‑5680. A demolisher who is provided with the vehicle’s certificate of title free and clear of encumbrances by the record owner, a sales receipt issued pursuant to Section 56‑5‑5850, or an affidavit executed in the form provided in Section 56‑5‑5680 at the time of purchaser or acquisition is not subject to the fifteen day waiting period and may proceed with wrecking, dismantling, or demolishing the vehicle at his convenience.

(2) A demolisher who purchases or otherwise acquires a vehicle for purposes of wrecking, dismantling, or demolishing shall not be required to obtain a certificate of title for the vehicle in his own name.

(3) 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.”

SECTION 6. Section 56‑5‑5945(D) of the 1976 Code is amended to read:

“(D)(1) A person who violates the provisions of this section:

(a) for a first offense, 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.

(b) for a second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, or imprisoned for not more than one hundred twenty days, or both; and

(c) for a third and subsequent offenses, is guilty of a felony and, upon conviction, must be fined in the discretion of the court and imprisoned for not more than five years, or both.

(2) Each violation constitutes a separate offense.”

SECTION 7. The Department of Motor Vehicles shall provide a mechanism to receive information required to be submitted by demolishers to the department pursuant to this act. The department shall not charge a fee or otherwise charge demolishers for transmitting the information to the department.

SECTION 8. This act takes effect upon approval by the Governor.

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