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May 2, 2012

**S. 1031**

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

S. Printed 3/29/12--H.

Read the first time February 29, 2012.

**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 ESTABLISHED 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 A 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 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.

Amend Title To Conform

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

SECTION 1. Section 40-27-10 of the 1976 Code is amended to read:

“Section 40-27-10. ~~Any~~A person or entity buying junk other than junk that consists of nonferrous metals, as defined by Section 16-17-680, or vehicles or golf carts shall keep a book that ~~he~~ the person or entity shall keep open to the inspection of all persons, wherein ~~he~~ the person or entity 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~~ persons and the ~~date of~~ purchase dates. ~~Any~~ A person or entity buying junk that consists of nonferrous metals, as defined by Section 16‑17‑680, is subject to the provisions of Section 16‑17‑680. A person or entity buying junk that consists of vehicles or golf carts is subject to the provisions of Sections 56‑5‑5670 and 56‑5‑5945.”

SECTION 2. Section 40-27-20 of the 1976 Code is amended to read:

“Section 40-27-20. ~~Such~~ A person or entity shall keep each article of junk ~~so~~ purchased other than junk that consists of nonferrous metals, as defined by Section 16-17-680, and vehicles or golf carts for a period of seventy‑two hours following ~~such~~ the purchase and shall keep ~~such~~ the junk open to the inspection of all persons. A person or entity buying junk that consists of nonferrous metals, as defined by Section 16‑17‑680, is subject to the provisions of Section 16‑17‑680. A person or entity buying junk that consists of vehicles or golf carts is subject to the provisions of Sections 56-5-5670 and 56-5-5945.”

SECTION 3. Section 56-3-1380 of the 1976 Code is amended to read:

“Section 56-3-1380. ~~Any~~ An owner who dismantles or wrecks ~~any~~ a vehicle or golf cart registered and licensed ~~under the provisions of~~ pursuant to this chapter shall forward to the Department of Motor Vehicles the registration card, ~~and~~ license plate, and revalidation sticker last issued for ~~such~~ the vehicle or golf cart. A person or entity who disposes of a vehicle or golf cart to a demolisher or secondary metals recycler shall provide the vehicle’s or golf cart’s title certificate to the demolisher or secondary metals recycler so that the demolisher or secondary metals recycler can surrender the title certificate to the Department of Motor Vehicles pursuant to Sections 56-5-5670 and 56-5-5945.”

SECTION 4. Section 56-5-5640 of the 1976 Code is amended to read:

“Section 56-5-5640. If an abandoned vehicle or golf cart has not been reclaimed ~~as provided for in~~ pursuant to Section 56‑5‑5630, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may have the abandoned vehicle or golf cart sold at a public auction pursuant to ~~the provisions set forth in~~ Section 29‑15‑10. The vehicle’s or golf cart’s purchaser ~~of the vehicle~~ shall take title to ~~it~~ the vehicle or golf cart free and clear of all liens and claims of ownership, shall receive a magistrate's order of sale, and is entitled to register the purchased vehicle or golf cart and receive a certificate of title. The Office of Court Administration shall design a uniform magistrate’s order of sale for purposes of this section, Section 56-5-5670, and Section 56-5-5945, and shall make the order available for distribution to the magistrates. The magistrate’s order of sale given at the sale must be sufficient title for purposes of transferring the vehicle or golf cart to a demolisher or secondary metals recycler for demolition, wrecking, or dismantling, and in ~~this~~ such case no further titling of the vehicle or golf cart is necessary. The expenses of the auction, the costs of towing, preserving, and storing the vehicle or golf cart which resulted from placing the vehicle or golf cart in custody, and all notice and publication costs incurred pursuant to ~~the provisions of~~ Section 29‑15‑10 must be reimbursed up to the amount of the auction sale price from the vehicle’s or golf cart’s sale proceeds ~~of the vehicle~~. ~~Any remainder of the~~ The remaining sale proceeds must be held for the vehicle’s or golf cart’s owner ~~of the vehicle~~ or entitled lienholder for ninety days. The magistrate ~~must~~ shall notify the vehicle’s or golf cart’s owner and all lienholders by certified or registered mail, return receipt requested, that the ~~vehicle~~ vehicle’s or golf cart’s owner or lienholder has ninety days to claim the proceeds from the vehicle’s or golf cart’s sale ~~of the vehicle~~. If the ~~vehicle~~ vehicle’s or golf cart’s proceeds are not collected within ninety days from the day after the notice to the vehicle’s or golf cart’s owner and all lienholders is mailed, then the ~~vehicle~~ vehicle’s or golf cart’s proceeds must be deposited in the county or municipality’s general fund ~~of the county or municipality~~.”

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

“Section 56-5-5670. (A)(1) Except as provided by subsections (B), (C), and (D), a person or entity may not dispose of a vehicle or golf cart to a demolisher or secondary metals recycler without a valid title certificate for the vehicle or golf cart in the person or entity’s name. The person or entity shall provide the vehicle’s or golf cart’s title certificate to the demolisher or secondary metals recycler.

(2) ~~A~~ The 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 or golf cart in ~~his~~ the demolisher or secondary metals recycler’s own name. After the vehicle or golf cart has been demolished, processed, or changed so that ~~it~~ the vehicle or golf cart physically is no longer a vehicle or golf cart, the demolisher or secondary metals recycler ~~must~~ shall surrender ~~for cancellation~~ the certificate of title~~, auction sales receipt, or disposal authority certificate~~ to the Department of Motor Vehicles for cancellation.

(3) 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.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle or golf cart with a title certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle or golf cart after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle or golf cart to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(B)(1) A person or entity may dispose of a vehicle or golf cart to a demolisher or secondary metals recycler with a valid magistrate’s order of sale in lieu of a title certificate, if the person or entity purchases the vehicle or golf cart at a public auction pursuant to Section 56-5-5640. The person or entity shall provide the magistrate’s order of sale to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle or golf cart in the demolisher or secondary metals recycler’s own name. After the vehicle or golf cart has been demolished, processed, or changed so that the vehicle or golf cart physically is no longer a vehicle or golf carts, the demolisher or secondary metals recycler shall surrender the magistrate’s order of sale to the Department of Motor Vehicles.

(3) The Office of Court Administration shall design a uniform magistrate’s order of sale for purposes of this subsection and Section 56-5-5640, and shall make the order available for distribution to the magistrates. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of magistrates’ orders of sale as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle or golf cart with a magistrate’s order of sale pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle or golf cart after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle or golf cart to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(C)(1) A person or entity may dispose of a vehicle or golf cart to a demolisher or secondary metals recycler with a valid sheriff’s disposal authority certificate in lieu of a title certificate, if the vehicle or golf cart is abandoned upon the person or entity’s property or into the person or entity’s possession and the vehicle or golf cart does not meet the requirements of subsection (D)(1). The person or entity shall provide the sheriff’s disposal authority certificate to the demolisher or secondary metals recycler.

(2) The person or entity shall apply to the sheriff of the jurisdiction in which the vehicle or golf cart is located for a disposal authority certificate to dispose of the vehicle or golf cart to a demolisher or secondary metals recycler. The application must provide, at a minimum, the person or entity’s name and address, the year, make, model, and identification number of the vehicle or golf cart, if ascertainable, along with any other identifying features, and must contain a concise statement of the facts surrounding the abandonment. The person or entity shall execute an affidavit stating that the facts alleged are true and that no material fact has been withheld. If the sheriff determines that the application is executed in proper form, and the application demonstrates that the vehicle or golf cart has been abandoned upon the person or entity’s property or into the person or entity’s possession, the notification procedures set forth in Section 56‑5‑5630 must be followed. If the vehicle or golf cart is not reclaimed pursuant to Section 56‑5‑5630, the sheriff shall give the applicant a certificate of authority to dispose of the vehicle or golf cart to a demolisher or secondary metals recycler. A disposal authority certificate may contain multiple listings.

(3) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle or golf cart in the demolisher or secondary metals recycler’s own name. After the vehicle or golf cart has been demolished, processed, or changed so that the vehicle or golf cart physically is no longer a vehicle or golf cart, the demolisher or secondary metals recycler shall surrender the sheriff’s disposal authority certificate to the Department of Motor Vehicles.

(4) The South Carolina Law Enforcement Division shall design a uniform sheriff’s disposal authority certificate for purposes of this subsection and shall make the certificate available for distribution to the sheriffs. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of sheriffs’ disposal authority certificates as appropriate.

(5) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle or golf cart with a sheriff’s disposal authority certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle or golf cart after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle or golf cart to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(D)(1) A person or entity may dispose of a vehicle or golf cart to a demolisher or secondary metals recycler without a title certificate, magistrate’s order of sale, or sheriff’s disposal authority certificate, if:

(a) the vehicle or golf cart is abandoned upon the person or entity’s property or into the person or entity’s possession, or if the person or entity is the owner of the vehicle or golf cart and the vehicle’s or golf cart’s title certificate is faulty, lost, or destroyed; and

(b) the vehicle or golf cart:

(i) is lawfully in the person or entity’s possession;

(ii) is twelve model years old or older;

(iii) does not have a valid registration plate affixed; and

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

(2) The person or entity shall complete and sign a form affirming that the vehicle or golf cart complies with the requirements of subsection (D)(1). The demolisher or secondary metals recycler shall maintain the original form affidavit in the transaction records as required by this section.

(3) The Department of Motor Vehicles shall develop a form affidavit for purposes of this subsection and shall make the form affidavit available for distribution to the demolishers and secondary metals recyclers.

(4) Prior to completion of the transaction, the demolisher or secondary metals recycler shall verify with the Department of Motor Vehicles whether the vehicle or golf cart has been reported stolen. The Department of Motor Vehicles shall develop an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle or golf cart has been reported stolen. The Department of Motor Vehicles shall not charge a demolisher or secondary metals recycler a fee for verifying whether a vehicle or golf cart has been reported stolen. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle or golf cart has been reported stolen, the demolisher or secondary metals recycler shall not complete the transaction and shall notify the appropriate law enforcement agency. The demolisher or secondary metals recycler is under no obligation to apprehend the person attempting to sell the vehicle or golf cart. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle or golf cart has not been reported stolen, the demolisher or secondary metals recycler may proceed with the transaction. In such case, the demolisher or secondary metals recycler is not criminally or civilly liable if the vehicle or golf cart later turns out to be a stolen vehicle or golf cart, unless the demolisher or secondary metals recycler had some other knowledge that the vehicle or golf cart was a stolen vehicle or golf cart.

(5) The demolisher or secondary metals recycler shall report the vehicle or golf cart to the National Motor Vehicle Title Information System at the time of the transaction or no later than the end of the day of the transaction. A demolisher or secondary metals recycler who reports vehicles or golf carts to the National Motor Vehicle Title Information System through a third party consolidator complies with the requirements of this subitem if the demolisher or secondary metals recycler reports the vehicle or golf cart to the third party consolidator so that the third party consolidator is able to transmit the vehicle or golf cart information to the National Motor Vehicle Title Information System no later than the end of the day of the transaction.

(6) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle or golf cart with a form affidavit pursuant to this subsection shall not wreck, dismantle, demolish, or otherwise dispose of the vehicle or golf cart until at least three business days after the transaction has taken place.

~~(B)~~(E) 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.

~~(C)~~(F)(1) A demolisher or secondary metals recycler ~~must~~ shall keep an accurate and complete record of all ~~abandoned~~ vehicles or golf carts ~~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. A demolisher, but not a secondary metals recycler, shall also keep an accurate and complete record of all vehicle or golf cart parts with a total weight of twenty-five pounds or more purchased or received by the demolisher in the course of business. These records must contain, at a minimum:

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

(b) the name of the demolisher or secondary metals recycler’s employee entering the information;

(c) the name and address of the person or entity from whom the vehicle or golf cart or vehicle or golf cart parts, as applicable, 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 golf cart or vehicle or golf cart parts, as applicable, are being purchased or received from an entity, the demolisher or secondary metals recycler shall obtain a photo or copy of the entity’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 entity’s agent’s identification on file, the demolisher or secondary metals recycler may reference the identification on file without making a photocopy for each transaction;

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

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

(g) a copy of the title certificate, magistrate’s order of sale, sheriff’s disposal authority certificate, or an original form affidavit, as applicable.

(2) The records ~~are~~ must be kept open for inspection by any ~~police~~ law enforcement officer at any time during normal business hours. All vehicles or golf carts 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~~ Records required by this section must be kept by the demolisher or secondary metals recycler for at least one year after the transaction to which it applies. A demolisher or secondary metals recycler may maintain records in an electronic database provided that the information is legible and can be accessed by law enforcement upon request.

~~(D)~~(G)(1) A person who 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 falsifies any information on an application, form, or affidavit 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, the Department of Motor Vehicles’ director may issue an administrative fine not to exceed one thousand dollars for each violation, whenever the director, or his designee, after a hearing, determines that a demolisher or secondary metals recycler has unknowingly and unwilfully 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 administrative fine must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of implementing this section.

(4) A vehicle or golf cart used to transport a vehicle or golf cart or vehicle or golf cart parts, as applicable, illegally disposed of in violation of this section may be seized by law enforcement and is subject to forfeiture; provided, however, that no vehicle or golf cart is subject to forfeiture unless it appears that the owner or other person in charge of the vehicle or golf cart is a consenting party or privy to the commission of the crime, and a forfeiture of the vehicle or golf cart 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.

(H) 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 affidavit to be used for the disposal of vehicles or golf carts to demolishers or secondary metals recyclers, the development of an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle or golf cart has been reported stolen, and assisting in the development of forms and regulations pursuant to this section. The working group must consist of representatives from the demolisher industry, secondary metals recycling industry, law enforcement agencies, and other relevant agencies, organizations, or industries as determined by the director.”

SECTION 6. Section 56-5-5945 of the 1976 Code is amended to read:

“Section 56-5-5945. (A)(1) Except as provided by subsections (B), (C), and (D), a person or entity may not dispose of a vehicle or golf cart to a demolisher or secondary metals recycler without a valid title certificate for the vehicle or golf cart in the person or entity’s name. The person or entity shall provide the vehicle’s or golf cart’s title certificate to the demolisher or secondary metals recycler.

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

(3) The Department of Motor Vehicles shall issue forms and regulations governing the surrender of certificates of title as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle or golf cart with a title certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle or golf cart after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle or golf cart to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(B)(1) A person or entity may dispose of a vehicle or golf cart to a demolisher or secondary metals recycler with a valid magistrate’s order of sale in lieu of a title certificate, if the person or entity purchases the vehicle or golf cart at a public auction pursuant to Section 56-5-5640. The person or entity shall provide the magistrate’s order of sale to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle or golf cart in the demolisher or secondary metals recycler’s own name. After the vehicle or golf cart has been demolished, processed, or changed so that the vehicle or golf cart physically is no longer a vehicle or golf cart, the demolisher or secondary metals recycler shall surrender the magistrate’s order of sale to the Department of Motor Vehicles.

(3) The Office of Court Administration shall design a uniform magistrate’s order of sale for purposes of this subsection and Section 56-5-5640, and shall make the order available for distribution to the magistrates. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of magistrates’ orders of sale as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle or golf cart with a magistrate’s order of sale pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle or golf cart after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle or golf cart to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(C)(1) A person or entity may dispose of a vehicle or golf cart to a demolisher or secondary metals recycler with a valid sheriff’s disposal authority certificate in lieu of a title certificate, if the vehicle or golf cart is abandoned upon the person or entity’s property or into the person or entity’s possession and the vehicle or golf cart does not meet the requirements of subsection (D)(1). The person or entity shall provide the sheriff’s disposal authority certificate to the demolisher or secondary metals recycler.

(2) The person or entity shall apply to the sheriff of the jurisdiction in which the vehicle or golf cart is located for a disposal authority certificate to dispose of the vehicle or golf cart to a demolisher or secondary metals recycler. The application must provide, at a minimum, the person or entity’s name and address, the year, make, model, and identification number of the vehicle or golf cart, if ascertainable, along with any other identifying features, and must contain a concise statement of the facts surrounding the abandonment. The person or entity shall execute an affidavit stating that the facts alleged are true and that no material fact has been withheld. If the sheriff determines that the application is executed in proper form, and the application demonstrates that the vehicle or golf cart has been abandoned upon the person or entity’s property or into the person or entity’s possession, the notification procedures set forth in Section 56‑5‑5630 must be followed. If the vehicle or golf cart is not reclaimed pursuant to Section 56‑5‑5630, the sheriff shall give the applicant a certificate of authority to dispose of the vehicle or golf cart to a demolisher or secondary metals recycler. A disposal authority certificate may contain multiple listings.

(3) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle or golf cart in the demolisher or secondary metals recycler’s own name. After the vehicle or golf cart has been demolished, processed, or changed so that the vehicle or golf cart physically is no longer a vehicle or golf cart, the demolisher or secondary metals recycler shall surrender the sheriff’s disposal authority certificate to the Department of Motor Vehicles.

(4) The South Carolina Law Enforcement Division shall design a uniform sheriff’s disposal authority certificate for purposes of this subsection and shall make the certificate available for distribution to the sheriffs. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of sheriffs’ disposal authority certificates as appropriate.

(5) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle or golf cart with a sheriff’s disposal authority certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle or golf cart after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle or golf cart to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(D)(1) A person or entity may dispose of a vehicle or golf cart to a demolisher or secondary metals recycler without a title certificate, magistrate’s order of sale, or sheriff’s disposal authority certificate, if:

(a) the vehicle or golf cart is abandoned upon the person or entity’s property or into the person or entity’s possession, or if the person or entity is the owner of the vehicle or golf cart and the vehicle’s or golf cart’s title certificate is faulty, lost, or destroyed; and

(b) the vehicle or golf cart:

(i) is lawfully in the person or entity’s possession;

(ii) is twelve model years old or older;

(iii) does not have a valid registration plate affixed; and

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

(2) The person or entity shall complete and sign a form affirming that the vehicle or golf cart complies with the requirements of subsection (D)(1). The demolisher or secondary metals recycler shall maintain the original form affidavit in the transaction records as required by this section.

(3) The Department of Motor Vehicles shall develop a form affidavit for purposes of this subsection and shall make the form affidavit available for distribution to the demolishers and secondary metals recyclers.

(4) Prior to completion of the transaction, the demolisher or secondary metals recycler shall verify with the Department of Motor Vehicles whether the vehicle or golf cart has been reported stolen. The Department of Motor Vehicles shall develop an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle or golf cart has been reported stolen. The Department of Motor Vehicles shall not charge a demolisher or secondary metals recycler a fee for verifying whether a vehicle or golf cart has been reported stolen. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle or golf cart has been reported stolen, the demolisher or secondary metals recycler shall not complete the transaction and shall notify the appropriate law enforcement agency. The demolisher or secondary metals recycler is under no obligation to apprehend the person attempting to sell the vehicle or golf cart. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle or golf cart has not been reported stolen, the demolisher or secondary metals recycler may proceed with the transaction. In such case, the demolisher or secondary metals recycler is not criminally or civilly liable if the vehicle or golf cart later turns out to be a stolen vehicle or golf cart, unless the demolisher or secondary metals recycler had some other knowledge that the vehicle or golf cart was a stolen vehicle or golf cart.

(5) The demolisher or secondary metals recycler shall report the vehicle or golf cart to the National Motor Vehicle Title Information System at the time of the transaction or no later than the end of the day of the transaction. A demolisher or secondary metals recycler who reports vehicles or golf carts to the National Motor Vehicle Title Information System through a third party consolidator complies with the requirements of this subitem if the demolisher or secondary metals recycler reports the vehicle or golf cart to the third party consolidator so that the third party consolidator is able to transmit the vehicle or golf cart information to the National Motor Vehicle Title Information System no later than the end of the day of the transaction.

(6) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle or golf cart with a form affidavit pursuant to this subsection shall not wreck, dismantle, demolish, or otherwise dispose of the vehicle or golf cart until at least three business days after the transaction has taken place.

~~(B)~~(E) 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.

~~(C)~~(F)(1) A demolisher or secondary metals recycler shall keep an accurate and complete record of all vehicles or golf carts ~~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. A demolisher, but not a secondary metals recycler, shall also keep an accurate and complete record of all vehicle or golf cart parts with a total weight of twenty-five pounds or more purchased or received by the demolisher in the course of business. These records ~~shall~~ must contain, at a minimum:

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

(b) the name of the demolisher or secondary metals recycler’s employee entering the information;

(c) the name and address of the person or entity from whom the vehicle or golf cart or vehicle or golf cart parts, as applicable, 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 golf cart or vehicle or golf cart parts, as applicable, are being purchased or received from an entity, the demolisher or secondary metals recycler shall obtain a photo or copy of the entity’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 entity’s agent’s identification on file, the demolisher or secondary metals recycler may reference the identification on file without making a photocopy for each transaction;

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

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

(g) a copy of the title certificate, magistrate’s order of sale, sheriff’s disposal authority certificate, or an original form affidavit, as applicable.

(2) The records ~~shall~~ must be kept open for inspection by any law enforcement officer at any time during normal business hours. All vehicles or golf carts 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~~ Records required by this ~~Section~~ section ~~shall~~ must be kept by the demolisher or secondary metals recycler for at least one year after the transaction to which it applies. A demolisher or secondary metals recycler may maintain records in an electronic database provided that the information is legible and can be accessed by law enforcement upon request.

~~(D)~~(G)(1) A person who 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 falsifies any information on an application, form, or affidavit 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, the Department of Motor Vehicles’ director may issue an administrative fine not to exceed one thousand dollars for each violation, whenever the director, or his designee, after a hearing, determines that a demolisher or secondary metals recycler has unknowingly and unwilfully 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 administrative fine must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of implementing this section.

(4) A vehicle or golf cart used to transport a vehicle or golf cart or vehicle or golf cart parts, as applicable, illegally disposed of in violation of this section may be seized by law enforcement and is subject to forfeiture; provided, however, that no vehicle or golf cart is subject to forfeiture unless it appears that the owner or other person in charge of the vehicle or golf cart is a consenting party or privy to the commission of the crime, and a forfeiture of the vehicle or golf cart 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.

(H) 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 affidavit to be used for the disposal of vehicles or golf carts to demolishers or secondary metals recyclers, the development of an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle or golf cart has been reported stolen, and assisting in the development of forms and regulations pursuant to this section. The working group must consist of representatives from the demolisher industry, secondary metals recycling industry, law enforcement agencies, and other relevant agencies, organizations, or industries as determined by the director.”

SECTION 7. Section 56-19-480(A) of the 1976 Code is amended to read:

“(A) An owner who scraps, dismantles, destroys, or in any manner disposes to another, except to a demolisher or secondary metals recycler, as wreckage or salvage, a motor vehicle or golf cart otherwise required to be titled in this State immediately shall mail or deliver to the Department of Motor Vehicles the vehicle's or golf cart’s certificate of title notifying the department to whom the vehicle or golf cart is delivered together with a report indicating the type and severity of any damage to the vehicle or golf cart. A person or entity who disposes of a vehicle or golf cart to a demolisher or secondary metals recycler shall provide the vehicle’s or golf cart’s title certificate to the demolisher or secondary metals recycler so that the demolisher or secondary metals recycler can surrender the title certificate to the Department of Motor Vehicles pursuant to Sections 56-5-5670 and 56-5-5945.”

SECTION 8. Chapter 2, Title 56 of the 1976 Code is amended by adding:

“Section 56‑2‑105. (A) For the purposes of this section, ‘gated community’ means any homeowners’ community with at least one controlled access ingress and egress which includes the presence of a guard house, a mechanical barrier, or another method of controlled conveyance.

(B) An individual or business owner of a vehicle commonly known as a golf cart may obtain a permit decal and registration from the Department of Motor Vehicles upon presenting proof of ownership and financial responsibility for the golf cart and upon payment of a five dollar fee.

(1) During daylight hours only, a permitted golf cart may be operated within four miles of the address on the registration certificate and only on a secondary highway or street for which the posted speed limit is thirty‑five miles an hour or less.

(2) During daylight hours only, a permitted golf cart may be operated within four miles of a point of ingress and egress to a gated community and only on a secondary highway or street for which the posted speed limit is thirty‑five miles an hour or less.

(3) During daylight hours only, within four miles of the registration holder’s address, and while traveling along a secondary highway or street for which the posted speed limit is thirty‑five miles an hour or less, a permitted golf cart may cross a highway or street at an intersection where the highway has a posted speed limit of more than thirty‑five miles an hour.

(4) During daylight hours only, a permitted golf cart may be operated along a secondary highway or street for which the posted speed limit is thirty‑five miles an hour or less on an island not accessible by a bridge designed for use by automobiles.

(D) A person operating a permitted golf cart must be at least sixteen years of age and hold a valid driver’s license. The operator of a permitted golf cart being operated on a highway or street must have in his possession:

(1) the registration certificate issued by the department;

(2) proof of financial responsibility for the golf cart; and

(3) his driver’s license.

(E)(1) A golf cart permit must be replaced with a new permit every five years, or at the time the permit holder changes his address.

(2) Golf cart owners holding golf cart permits on or before October 1, 2012, will have until September 30, 2015, to obtain a replacement permit.

(F) A political subdivision may, on designated streets on roads within the political subdivision’s jurisdiction, reduce the area in which a permitted golf cart may operate from four miles to no less than two miles. However, a political subdivision may not reduce or otherwise amend the other restrictions placed on the operation of a permitted golf cart contained in this section.

(G) The provisions of this section that restrict the use of a golf cart to certain streets, certain hours, and certain distances shall not apply to a golf cart used by a public safety agency in connection with the performance of its duties.”

SECTION 9. Section 56‑3‑115 and Section 56-5-5660 of the 1976 Code are repealed.

SECTION 10. 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 11. Subsection (H) of Section 56-5-5670 of the 1976 Code as contained in SECTION 5 and subsection (H) of Section 56-5-5945 of the 1976 Code as contained in SECTION 6 take effect upon approval by the Governor. SECTION 8 and the repeal of Section 56-3-115 take effect on October 1, 2012. All other provisions of this act take effect one hundred eighty days after approval by the Governor.

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