~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

May 8, 2012

**S. 1031**

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

S. Printed 5/8/12--H. [SEC 5/9/12 2:40 PM]

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. Section 16‑11‑523 of the 1976 Code is amended to read:

“Section 16‑11‑523. (A) For purposes of this section, ‘nonferrous metals’ means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead‑acid batteries, ~~and~~ stainless steel beer kegs or containers, and steel propane gas tanks obtained by a demolisher or secondary metals recycler or otherwise.

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

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

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

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

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

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

(E) A person who violates the provisions of this section and the violation results in disruption of communication or electrical service to critical infrastructure or more than ten customers of the communication or electrical service is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

(F) If a person is convicted of violating the provisions of this section and the person has been issued a permit pursuant to Section 16‑17‑680, the permit must be revoked.

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

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

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

SECTION 12. Section 16‑17‑680 of the 1976 Code is amended to read:

“Section 16‑17‑680. (A) For purposes of this section:

(1) ‘Fixed site’ means ~~any~~ a 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 sixty‑four days.

(2) ‘Nonferrous metals’ means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, cooper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead‑acid batteries, and stainless steel beer kegs or containers, and steel propane gas tanks.

(3) ‘Secondary metals recycler’ means ~~any~~ a person or entity who is engaged, from a fixed site or otherwise, 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.

~~(4)~~ ~~‘Vehicle used in the ordinary course of business for the purpose of transporting nonferrous metals’ includes, but is not limited to, vehicles used by gas, electric, communications, water, plumbing, electrical, and climate conditioning service providers, and their employees, agents, and contractors, in the course of providing these services.~~

(B)(1) A secondary metals recycler shall obtain a permit to purchase nonferrous metals. A secondary metals recycler’s employee is not required to obtain a separate permit to purchase nonferrous metals provided that the employee is acting within the scope and duties of their employment with the secondary metals recycler. A secondary metals recycler’s employee who intends to purchase nonferrous metals on behalf of the secondary metals recycler at a location other than a fixed site shall have a copy of the secondary metals recycler’s permit readily available for inspection.

(2) If a secondary metals recycler intends to purchase nonferrous metals at a fixed site or fixed sites, the secondary metals recycler shall obtain a permit from the sheriff of the county in which each of the secondary metals recycler’s fixed sites are located. The sheriff ~~shall~~ may issue the permit to the secondary metals recycler, if the secondary metals recycler:

~~(1)~~(a) has a fixed site or fixed sites located in the sheriff’s county; ~~and~~

(b) has not been convicted of a violation of Section 16‑11‑523 or this section; and

~~(2)~~(c) declares on ~~a form~~ an application provided by the sheriff that the secondary metals recycler is informed of and will comply with the provisions of this section.

(3) If a secondary metals recycler intends to purchase nonferrous metals at a location other than a fixed site, the secondary metals recycler shall obtain a permit from the sheriff of each county in which the secondary metals recycler intends to purchase nonferrous metals. The sheriff may issue the permit to the secondary metals recycler if the secondary metals recycler:

(a) can sufficiently demonstrate to the sheriff the secondary metals recycler’s ability to comply with the provisions of this section;

(b) has not been convicted of a violation of Section 16‑11‑523 or this section; and

(c) declares on an application provided by the sheriff that the secondary metals recycler is informed of and will comply with the provisions of this section.

(4) The South Carolina Law Enforcement Division shall develop the application and permit in consultation with the state’s sheriffs and representatives from the secondary metals recyclers’ industry.

(5) A sheriff may investigate a secondary metals recycler’s background prior to issuing a permit for purposes of determining if the secondary metals recycler qualifies to be issued a permit.

(6) ~~The~~ A sheriff may charge and retain a two hundred dollar fee for ~~the~~ each permit.

(7) ~~The~~ A sheriff shall keep a record of all permits issued ~~pursuant to this subsection~~ containing, at a minimum, the date of issuance, and the name and address of the ~~permit holder~~ secondary metals recycler.

(8) ~~The~~ A permit is valid for twenty‑four months.

(9) A permit may be denied, suspended, or revoked at any time if a sheriff discovers that the information on an application is inaccurate, a secondary metals recycler does not comply with the requirements of this section, or a secondary metals recycler is convicted of a violation of Section 16‑11‑523 or this section.

(C)(1) A person or entity ~~other than a holder of a retail license, an authorized wholesaler, a contractor licensed pursuant to Article 1, Chapter 11, Title 40, or a gas, electric, communications, water, plumbing, electrical, or climate conditioning service provider,~~ who wants to transport or sell nonferrous metals to a secondary metals recycler shall obtain a permit to transport and sell the nonferrous metals. An entity’s employee is not required to obtain a separate permit to transport or sell nonferrous metals provided that the employee is acting within the scope and duties of their employment with the entity. An entity’s employee who intends to transport and sell nonferrous metals on behalf of an entity shall have a copy of the entity’s permit readily available for inspection.

(2) If a person is a resident of South Carolina or an entity is located in South Carolina, the person or entity shall obtain a permit from the sheriff of the county in which the person resides or has a secondary residence or in which the entity is located or has a secondary business. The sheriff ~~shall~~ may issue the permit to the person or entity if the:

(a) person resides or has a secondary residence or the entity is located or has a secondary business in the sheriff’s county~~, or, if the person is not a resident of or the entity is not located in South Carolina, secondary metals recycler purchasing the nonferrous metals is located in the sheriff’s county~~; ~~and~~

(b) person or entity has not been convicted of a violation of Section 16‑11‑523 or this section; and

~~(b)~~(c) person or entity declares on ~~a form~~ an application provided by the sheriff that the person or entity is informed of and will comply with the provisions of this section.

(3) If ~~the~~ a person is not a resident of this State or ~~the~~ an entity is not located in South Carolina, the person or entity shall obtain a permit ~~to transport and sell nonferrous metals~~ from ~~the~~ any sheriff of ~~the~~ any county ~~in which the secondary metals recycler purchasing the nonferrous metals is located~~. The sheriff may issue the permit to the person or entity if the:

(a) person is not a resident of South Carolina or the entity is not located in South Carolina;

(b) person or entity has not been convicted of a violation of Section 16‑11‑523 or this section; and

(c) person or entity declares on an application provided by the sheriff that the person or entity is informed of and will comply with the provisions of this section.

(4) The South Carolina Law Enforcement Division shall develop the application and permit in consultation with the state’s sheriffs and representatives of the secondary metals recyclers’ industry.

(5) A sheriff may investigate a person or entity’s background prior to issuing a permit for purposes of determining if the person or entity qualifies to be issued a permit.

(6) ~~The~~ A sheriff may not charge a fee for ~~the~~ a permit. A sheriff may charge a ten dollar fee to replace a permit that has been lost or destroyed. If the original permit is later found by the person or entity, the person or entity must turn the original permit into the sheriff or destroy the original permit.

(7) ~~The~~A sheriff shall keep a record of all permits issued ~~pursuant to this subsection~~ containing, at a minimum, the date of issuance, the name and address of the ~~permit holder~~ person or entity, a photocopy of the ~~permit holder’s~~ person’s identification or of the employee’s identification, ~~the license plate number of the permit holder’s person’s motor vehicle or the entity’s motor vehicle,~~ and the ~~permit holder’s~~ person’s photograph or the entity’s employee’s photograph.

(8) ~~The~~A permit is valid ~~for twelve months~~ statewide and expires on the person’s birth date on the second calendar year after the calendar year in which the permit is issued, or, if the permittee is an entity, the permit expires on the date of issuance on the second calendar year after the calendar year in which the permit is issued. ~~If a person or entity only wants to sell or transport nonferrous metals a maximum of two times in a twelve month period, the person or entity can obtain a forty‑eight hour permit from the applicable sheriff’s office pursuant to this subsection, except that the person only needs to call the sheriff’s office, provide the required information, and obtain a permit number. A person or entity only may request such a permit two times in a twelve month period.~~

(9) A permit may be denied, suspended, or revoked at any time if a sheriff discovers that the information on an application is inaccurate, a person or entity does not comply with the requirements of this section, or a person or entity is convicted of a violation of Section 16‑11‑523 or this section.

~~(2)(a)~~(10)(a) It is unlawful for a person or entity to obtain a permit to transport and sell nonferrous metals for the purpose of transporting or selling stolen nonferrous metals.

(b) A person who violates a provision of this subitem is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The person or entity’s permit must be revoked.

(D)(1) It is unlawful to purchase nonferrous metals in any amount for the purpose of recycling the nonferrous metals from a seller ~~who is not a holder of a retail license, an authorized wholesaler, a contractor licensed pursuant to Article 1, Chapter 11, Title 40, or a gas, electric, communications, water, plumbing, electrical, or climate conditioning service provider,~~ unless the purchaser is a secondary metals recycler who has a valid permit to purchase nonferrous metals issued pursuant to subsection (B) and the seller has a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C). A secondary metals recycler may hold a seller’s nonferrous metals while the seller obtains a permit to transport and sell nonferrous metals pursuant to subsection (C).

(2) A secondary metals recycler shall maintain a record containing, at a minimum, the date of purchase, the name and address of the seller, a photocopy of the seller’s identification, a photocopy of the seller’s permit to transport and sell nonferrous metals, if applicable, the license plate number of the seller’s motor vehicle, if available, the seller’s photograph, the weight ~~or length,~~ and size or other description of the nonferrous metals purchased, the amount paid for ~~it~~ the nonferrous metals, and a signed statement from the seller stating that the seller is the rightful owner or is entitled to sell the nonferrous metals being sold. If the secondary metals recycler has the seller’s photograph on file, the secondary metals recycler may reference the photograph on file without making a photograph for each transaction; however, the secondary metals recycler shall update the seller’s photograph on an annual basis. A secondary metals recycler may use a video of the seller in lieu of a photograph provided the secondary metals recycler maintains the video for at least one hundred and twenty days. A secondary metals recycler may maintain a record in an electronic database provided that the information is legible and can be accessed by law enforcement upon request.

(3) 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~~ one year from the date of purchase.

~~(2)~~(4) ~~A secondary metals recycler shall purchase copper, catalytic converters, and beer kegs by check alone~~ A secondary metals recycler shall not enter into a cash transaction in payment for the purchase of copper, catalytic converters, and beer kegs. Payment for the purchase of copper, catalytic converters, and beer kegs must be made by check alone issued and made payable to the seller. A secondary metals recycler shall neither cash a check issued pursuant to this item nor use an automated teller machine (ATM) or other cash card system in lieu of a check.

~~(3)~~(5) A secondary metals recycler shall prominently display a twenty‑inch by thirty‑inch sign in the secondary metals recycler’s fixed site that states: ‘NO NONFERROUS METALS, INCLUDING COPPER, MAY BE PURCHASED BY A SECONDARY METALS RECYCLER FROM A SELLER UNLESS THE SELLER IS A HOLDER OF A RETAIL LICENSE, AN AUTHORIZED WHOLESALER, A CONTRACTOR LICENSED PURSUANT TO ARTICLE 1, CHAPTER 11, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, A GAS, ELECTRIC, COMMUNICATIONS, WATER, PLUMBING, ELECTRICAL, OR CLIMATE CONDITIONING SERVICE PROVIDER, OR THE SELLER PRESENTS THE SELLER’S VALID PERMIT TO TRANSPORT AND SELL NONFERROUS METALS ISSUED PURSUANT TO SECTION 16‑17‑680, CODE OF LAWS OF SOUTH CAROLINA, 1976.’

~~(4)~~(6) A purchaser who violates a provision of this subsection:

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third offense or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that 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 subsection.

If the purchaser obtained a permit to purchase nonferrous metals pursuant to subsection (B), the permit must be revoked.

(E)(1)(a) It is unlawful to sell nonferrous metals in any amount to a secondary metals recycler unless the secondary metals recycler has a valid permit to purchase nonferrous metals issued pursuant to subsection (B) and the seller ~~is a holder of a retail license, an authorized wholesaler, a contractor licensed pursuant to Article 1, Chapter 11, Title 40, or a gas, electric, communications, water, plumbing, electrical, or climate conditioning service provider, or the seller~~ has a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C).

(b) A seller who violates a provision of this subitem:

(i) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than one year, or both;

(ii) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than five hundred dollars or imprisoned not more than three years, or both; and

(iii) for a third or subsequent offense, is guilty of a felony, and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than five years, or both.

If the seller obtained a permit to transport and sell nonferrous metals pursuant to subsection (C), the permit must be revoked.

(2)(a) It is unlawful to purchase or otherwise acquire nonferrous metals in any amount from a seller who does not have a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C) with the intent to resell the nonferrous metals in any amount to a secondary metals recycler using the purchaser’s valid permit to transport and sell nonferrous metals issued pursuant to subsection (C).

(b) A purchaser who violates a provision of this subitem is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The purchaser’s permit must be revoked.

(F)(1) 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 fixed site 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 fixed site 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.

(4) A secondary metals recycler who violates a provision of this subsection:

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that 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 subsection.

The secondary metals recycler’s permit to purchase nonferrous metals issued pursuant to subsection (B) must be revoked.

(G)(1) It is unlawful to transport nonferrous metals in a vehicle or have nonferrous metals in a person’s possession in a vehicle on the highways of this State ~~nonferrous metals of an aggregate weight of more than ten pounds~~.

(2) Subsection (G)(1) does not apply if:

(a) ~~the vehicle is a vehicle used in the ordinary course of business for the purpose of transporting nonferrous metals;~~

~~(b)~~ the person can present a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C); or

~~(c)~~(b) the person can present a valid bill of sale for the nonferrous metals.

(3) If a law enforcement officer determines that one or more of the exceptions listed in item (G)(2) applies, or the law enforcement officer determines that the nonferrous metals are not stolen goods and are in the rightful possession of the person, the law enforcement officer shall not issue a citation for a violation of this subsection.

(4) A person who violates a provision of item (G)(1):

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days;

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

(c) for a third or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that 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 subsection.

(5) If a person transports nonferrous metals that the person knows are stolen in a vehicle or has in the person’s possession in a vehicle on the highways of this State nonferrous metals that the person knows are stolen, is operating a vehicle used in the ordinary course of business to transport nonferrous metals that the person knows are stolen, presents a valid or falsified permit to transport and sell nonferrous metals that the person knows are stolen, or presents a valid or falsified bill of sale for nonferrous metals that the person knows to be stolen, the person is guilty of a felony, and, upon conviction, must be must be fined in the discretion of the court or imprisoned not more than ten years, or both. If the person obtained a permit to transport and sell nonferrous metals pursuant to subsection (C), the permit must be revoked.

(H) For purposes of this section, the only acceptable identification ~~acceptable~~ is a valid:

(1) ~~valid~~ South Carolina driver’s license issued by the Department of Motor Vehicles;

(2) ~~valid~~ 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.

(I) A secondary metals recycler must not purchase or otherwise acquire an iron or steel:

(1) manhole cover; or

(2) drainage grate.

~~(I)~~(J)(1) Except as provided in item (2), ~~The~~ the provisions of this section do not apply to:

(a) the purchase or sale of aluminum cans;

(b) a transaction between a secondary metals recycler and another secondary metals recycler;

(c) a governmental entity;

(d) a manufacturing or industrial vendor that generates or sells regulated metals in the ordinary course of its business;

(e) a holder of a retail license, an authorized wholesaler, an automobile demolisher as defined in Section 56‑5‑5810(d), a contractor licensed pursuant to Chapter 11, Title 40, a residential home builder licensed pursuant to Chapter 59, Title 40, a demolition contractor, a provider of gas service, electric service, communications service, water service, plumbing service, electrical service, climate conditioning service, core recycling service, appliance repair service, automotive repair service, or electronics repair service; or

(f) organizations, corporations, or associations registered with the State as charitable organizations or any nonprofit corporation.

(2) An exempted entity listed in item (1) is subject to the provisions of subsection (C)(10) and subsection (G)(5).

A secondary metals recycler shall maintain a record of transactions involving exempted entities listed in item (1) pursuant to subsection (D) and is subject to the penalty provisions of subsection (D)(6). Any item of nonferrous metals acquired from an exempted entity listed in item (1) is subject to a hold notice pursuant to subsection (F).

~~(J)~~(K) This section preempts local ordinances and regulations governing the purchase, sale, or transportation of nonferrous metals in any amount, except to the extent that such ordinances pertain 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 13. 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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