**A** **BILL**

TO AMEND SECTION 56-5-5670 OF THE 1976 CODE, RELATING TO DUTIES IMPOSED ON A DEMOLISHER OR SECONDARY METALS RECYCLER, TO PROVIDE THAT CERTAIN PROVISIONS IN THIS SECTION APPLY TO AN AUTOMOTIVE RECYCLER, AND TO PROVIDE THAT CERTAIN PROVISIONS CONTAINED IN THIS SECTION SHALL NOT APPLY TO SALES CONDUCTED AT SALVAGE POOL AUCTIONS, TO DEFINE NECESSARY TERMS, AND TO PROVIDE PENALTIES.

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

SECTION 1. Section 56‑5‑5670 of the 1976 Code is amended to read:

“Section 56‑5‑5670. (A) For purposes of this section~~,~~:

(1) ‘Vehicle’ ~~‘vehicle’~~ has the same meaning as defined by Section 56‑5‑120 and includes, but is not limited to, a ‘trailer’, as defined by Section 56‑5‑240, a ‘semitrailer’, as defined by Section 56‑5‑250, and a ‘pole trailer’, as defined by Section 56‑5‑260.

(2) ‘Automotive recycler’ means a person, firm, corporation or other business entity who acquires vehicles for the purpose of dismantling, wrecking, shredding, compacting, crushing or otherwise destroying for reclaimable parts or scrap material.

(B)(1) Except as provided by subsections (C), (D), and (E), a person or entity may not dispose of a vehicle to a demolisher or secondary metals recycler without a valid title certificate for the vehicle in the person or entity’s name. The person or entity shall provide the vehicle’s title certificate 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 in the demolisher or secondary metals recycler’s own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the certificate of title 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 with a title certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle 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 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 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 in the demolisher or secondary metals recycler’s own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, 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 with a magistrate’s order of sale pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle 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 to a demolisher or secondary metals recycler with a valid sheriff’s disposal authority certificate in lieu of a title certificate, if the vehicle is abandoned upon the person or entity’s property or into the person or entity’s possession and the vehicle does not meet the requirements of subsection (E)(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 is located for a disposal authority certificate to dispose of the vehicle 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, 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 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 is not reclaimed pursuant to Section 56‑5‑5630, the sheriff shall give the applicant a certificate of authority to dispose of the vehicle 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 in the demolisher or secondary metals recycler’s own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, 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 with a sheriff’s disposal authority certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(E)(1) A person or entity may dispose of a vehicle 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 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 and the vehicle’s title certificate is faulty, lost, or destroyed; and

(b) the vehicle:

(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 complies with the requirements of subsection (E)(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, or automotive recycler shall verify with the Department of Motor Vehicles whether the vehicle has been reported stolen. The Department of Motor Vehicles shall develop an electronic system for demolishers, ~~and~~ secondary metals recyclers, and automotive recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen~~.~~, and that also allows for the departments’s response to be printed and retained by the person making the request. The Department of Motor Vehicles shall not charge a demolisher, ~~or~~ secondary metals recycler, or automotive recycler a fee for verifying whether a vehicle has been reported stolen. If the Department of Motor Vehicles indicates to the demolisher, ~~or~~ secondary metals recycler, or automotive recycler that the vehicle has been reported stolen, the demolisher, ~~or~~ secondary metals recycler, or automotive recycler shall not complete the transaction and shall notify the appropriate law enforcement agency at the time of the transaction or no later than the end of the day of the transaction of the current location of the vehicle and the identifying information of the person attempting to transfer the vehicle along with such information provided in subsection (G)(1). The demolisher, ~~or~~ secondary metals recycler, or automotive recycler is under no obligation to apprehend the person attempting to sell the vehicle. If the Department of Motor Vehicles indicates to the demolisher, ~~or~~ secondary metals recycler, or automotive recycler that the vehicle has not been reported stolen, the demolisher, ~~or~~ secondary metals recycler, or automotive recycler may proceed with the transaction. In such case, the demolisher, ~~or~~ secondary metals recycler, or automotive recycler is not criminally or civilly liable if the vehicle later turns out to be a stolen vehicle, unless the demolisher, ~~or~~ secondary metals recycler, or automotive recycler had some other knowledge that the vehicle was a stolen vehicle. The provisions contained in this item shall not apply to sales conducted at salvage pool auctions.

(5) The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations at the time of the transaction or no later than the end of the day of the transaction, such information contained in subsection (G)(1), along with any other information or statement pertaining to the intended disposition of the motor vehicle, as may be required. A demolisher or secondary metals recycler who reports vehicles to the National Motor Vehicle Title Information System through a third party consolidator and complies with the requirements of this item if the demolisher or secondary metals recycler reports the vehicle to the third party consolidator so that the third party consolidator is able to transmit the vehicle information to the National Motor Vehicle Title Information System in compliance with federal laws and regulations 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 with a form affidavit pursuant to this subsection shall not wreck, dismantle, demolish, or otherwise dispose of the vehicle until at least three business days, including the date of purchase, after the transaction has taken place and the demolisher or secondary metals recycler has verified, again, at least three business days after the transaction has taken place, with the Department of Motor Vehicles whether the vehicle has been reported stolen. The Department of Motor Vehicles shall develop an electronic system for demolishers and secondary metals recyclers to use to verify whether a vehicle has been reported stolen, and that also allows for the department's response to be printed and retained by the person making the request. The Department of Motor Vehicles shall not charge a demolisher or secondary metals recycler a fee for verifying whether a vehicle has been reported stolen. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has been reported stolen, the demolisher or secondary metals recycler shall not complete the transaction and shall notify the appropriate law enforcement agency of the current location of the vehicle and the identifying information of the person attempting to transfer the vehicle.

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

(G)(1) A demolisher or secondary metals recycler shall keep an accurate and complete record ~~of all vehicles purchased or received~~ on a form, or in a format, as approved by the Department of Motor Vehicles of all purchase transactions of motor vehicles by the demolisher or secondary metals recycler in the course of business. A demolisher, but not a secondary metals recycler, also shall keep an accurate and complete record of all vehicle 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, and driver’s license number of the person or entity from whom the vehicle or vehicle 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 vehicle 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;

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

(g) a written statement signed by the seller or the seller’s agent certifying that

(i) the seller or the seller’s agent has the lawful right to sell and dispose of the motor vehicle,

(ii) the motor vehicle is at least twelve model years old, and

(iii) the motor vehicle is not subject to any security interest or lien;

(h) a written statement that the motor vehicle will be scrapped or crushed for disposal or dismantled for parts only; and

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

(3) Records required by this section must be kept by the demolisher or secondary metals recycler for at least ~~one year~~ three years 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.

(4) If a seller has no identification as described in subsection (G)(1)(d), the secondary metals recycler or salvage yard shall not complete the transaction.

(H)(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.~~ A purchaser who violates any provision of this section:

(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.

(2) A seller who violates any provision of this section:

(a) 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; The court may order a defendant seller under this subsection to make restitution to the secondary metals recycler or salvage yard or lien holder for any damage or loss caused by the defendant seller arising out of an offense committed by the defendant seller.

(b) 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; The court may order a defendant seller under this subsection to make restitution to the secondary metals recycler or salvage yard or lien holder for any damage or loss caused by the defendant seller arising out of an offense committed by the defendant seller; and

(c) 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; The court may order a defendant seller under this subsection to make restitution to the secondary metals recycler or salvage yard or lien holder for any damage or loss caused by the defendant seller arising out of an offense committed by the defendant seller.

~~(2)~~(3) 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)~~(4) In ~~lieu of~~ addition to criminal penalties, the Department of Motor Vehicles’ director, or the director’s designee, may issue an administrative fine not to exceed one thousand dollars for each violation, whenever the director, or the director’s 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)~~(5) A vehicle used to transport a vehicle or vehicle 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 is subject to forfeiture unless it appears that the owner or other person in charge of the vehicle is a consenting party or privy to the commission of the crime, and a forfeiture of the vehicle encumbered by a security interest is subject to the interest of the secured party who had no knowledge of or consented to the act. The seizure and forfeiture must be accomplished in accordance with the provisions of Section 56‑29‑50.

(I) 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 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 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 demolishing industry, secondary metals recycling industry, the trucking industry, law enforcement agencies, and other relevant agencies, organizations, or industries as determined by the director, or the director’s designee.”

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

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