**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑27‑05 SO AS TO DEFINE THE TERM “JUNK DEALER” AND LIMIT THE APPLICABILITY OF RELATED PROVISIONS; BY ADDING SECTION 40‑27‑30 SO AS TO PROVIDE PROCEDURES FOR LAW ENFORCEMENT TREATMENT OF JUNK ACQUIRED BY JUNK DEALERS THAT IS BELIEVED TO BE STOLEN OR MISAPPROPRIATED, AND RIGHTS AND OBLIGATIONS OF CERTAIN RELATED PARTIES; TO AMEND SECTION 40‑27‑10, RELATING TO RECORD KEEPING REQUIREMENTS OF JUNK DEALERS, SO AS TO REVISE THESE REQUIREMENTS, TO MAKE CONFORMING CHANGES, AND TO REMOVE OBSOLETE LANGUAGE; TO AMEND SECTION 40‑27‑20, RELATING TO THE REQUIREMENT FOR RETAINING JUNK WHEN ACQUIRED BY JUNK DEALERS FOR SEVENTY‑TWO HOURS AFTER ACQUISITION, SO AS TO MAKE CONFORMING CHANGES AND TO REMOVE OBSOLETE LANGUAGE; AND TO AMEND SECTION 40‑27‑40, RELATING TO PENALTIES FOR VIOLATIONS, SO AS TO REVISE THE PENALTIES.

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

SECTION 1. Article 1, Chapter 27, Title 40 of the 1976 Code is amended by adding:

“Section 40‑27‑05. (A) For purposes of this article, ‘junk dealer’ means a person that commercially buys and sells junk.

(B) The provisions of this article do not apply to a person when buying junk that consists of:

(1) nonferrous metals as defined by Section 16‑17‑680, which are instead subject to the provisions of Section 16‑17‑680; or

(2) certain vehicles subject to the provisions of Sections 56‑5‑5670 and 56‑5‑5945.”

SECTION 2. Article 1, Chapter 27, Title 40 of the 1976 Code is amended by adding:

“Section 40‑27‑30. (A) When an appropriate law enforcement official has probable cause to believe that property in the possession of a junk dealer is misappropriated or stolen, he shall deliver to the junk dealer the relevant police report or case number pertaining to the property, and the junk dealer shall release the property to the appropriate law enforcement agency for use in a criminal investigation or return the property to the identified innocent owner. A junk dealer who releases the property to law enforcement must be listed as a statutory victim on all transmitted reports and case files. If at the conclusion of the criminal investigation no identifiable innocent owner is found, the property must be returned to the junk dealer by the appropriate law enforcement agency.

(B) The release of the property to the custody of the appropriate law enforcement official pursuant to subsection (A) is not considered a waiver or release of the junk dealer’s property rights or interest in the property. Upon completion of the criminal proceeding involving the property identified as stolen, the court additionally shall order the conveying customer to pay restitution to the junk dealer in the amount received by the conveying customer for the property.

(C) When law enforcement seizes property pursuant to subsection (A), it shall hold the seized property for ten business days before releasing it to an innocent owner. During this ten business day period, the junk dealer may file an action for claim and delivery of the seized property, provided it also shall serve notice of this action to the law enforcement agency. If no notice is received within this ten business day period, the law enforcement agency may release the property to an identified innocent owner. A law enforcement agency that receives notice shall hold the property during the pendency of the action.”

SECTION 3. Section 40‑27‑10 of the 1976 Code is amended to read:

“Section 40‑27‑10. ~~A person or entity buying junk other than junk that consists of nonferrous metals, as defined by Section 16‑17‑680, or vehicles shall keep a book that the person or entity shall keep open to the inspection of all persons, wherein 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 persons and the purchase dates. 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 is subject to the provisions of Sections 56‑5‑5670 and 56‑5‑5945.~~ (A) A junk dealer shall maintain a record, at the time of the purchase or receipt, containing:

(1) an account, description, and digital photograph of these items; and

(2) the name and address of the person selling or delivering these items.

(B) Before purchasing or receiving these items, the junk dealer shall verify the identity of the seller or delivery person by reviewing a state‑issued or federally issued photographic identification card, including a United States military identification card, or a passport issued by the United States.

(C) Records kept by a junk dealer pursuant to this chapter must at all reasonable times be open to inspection by court officials, law enforcement officers, the Administrator of the Department of Consumer Affairs, and their designees. Language in these records that identifies any individual must be handled in a confidential manner at all times.

(D) Junk dealers shall provide all records of purchased or received items by electronic data transfer to a database system accessible by law enforcement and approved by the Department of Consumer Affairs.”

SECTION 4. Section 40‑27‑20 of the 1976 Code is amended to read:

“Section 40‑27‑20. A ~~person or entity~~ junk dealer shall keep each article of junk purchased ~~other than junk that consists of nonferrous metals, as defined by Section 16‑17‑680, and vehicles~~ for a period of ~~seventy‑two hours~~ twenty‑one days following the purchase and shall keep the junk open to the inspection of all persons with a law enforcement representative present for the inspection. ~~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 is subject to the provisions of Sections 56‑5‑5670 and 56‑5‑5945.~~”

SECTION 5. Section 40‑27‑40 of the 1976 Code is amended to read:

“Section 40‑27‑40. ~~A person violating a provision of this article shall be fined a sum not exceeding five hundred dollars or imprisoned not exceeding thirty days.~~ A junk dealer who knowingly and intentionally violates the provisions of Section 40‑39‑90 is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both. Each violation constitutes a separate offense. A violation of the provisions of this section is triable in magistrates or municipal court, as appropriate.”

SECTION 6. This act takes effect upon approval by the Governor.

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