**A** **BILL**

TO AMEND SECTION 56‑5‑5640, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SALE OF UNCLAIMED VEHICLES AND THE DISPOSITION OF PROCEEDS, SO AS TO PROVIDE FOR THE TRANSFER OF A VEHICLE TO AN AUTOMOTIVE DISMANTLER OR RECYCLER OR SECONDARY METALS RECYCLER FOR DEMOLITION, WRECKING, OR DISMANTLING AND NOT TO A DEMOLISHER; TO AMEND SECTION 56‑5‑5670, RELATING TO THE DUTIES OF DEMOLISHERS AND THE DISPOSAL OF A VEHICLE TO A DEMOLISHER OR SECONDARY METALS RECYCLER, SO AS TO MAKE CONFORMING CHANGES AND REVISE THE PENALTY; TO AMEND SECTION 56‑5‑5810, RELATING TO THE TERMS AND THEIR DEFINITIONS RELATING TO THE DISPOSITION OF ABANDONED MOTOR VEHICLES, SO AS TO DELETE THE TERM “DEMOLISHER” AND ITS DEFINITION AND TO PROVIDE A DEFINITION FOR THE TERM “SECONDARY METALS RECYCLER”; TO AMEND SECTION 56‑5‑5945, RELATING TO THE DUTIES OF DEMOLISHERS AND THE DISPOSAL OF VEHICLES, SO AS TO MAKE CONFORMING CHANGES AND REVISE THE PENALTY; TO AMEND SECTION 56‑19‑480, RELATING TO THE TRANSFER AND SURRENDER OF THE CERTIFICATES, LICENSE PLATES, REGISTRATION CARDS, AND MANUFACTURERS’ SERIAL PLATES OF VEHICLES SOLD AS SALVAGE, ABANDONED, SCRAPPED, OR DESTROYED, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 56‑3‑1380, RELATING TO THE RETURN OF A REGISTRATION CARD AND LICENSE PLATE FOR A WRECKED OR DISMANTLED VEHICLE, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 16‑17‑680, RELATING TO A SECONDARY METALS RECYCLER PERMIT TO PURCHASE NONFERROUS METALS AND A PERMIT TO TRANSPORT AND SELL NONFERROUS METALS, SO AS TO MAKE CONFORMING CHANGES, DEFINE NECESSARY TERMS, AND REVISE THE PENALTY.

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

SECTION 1. Section 56‑5‑5640 of the 1976 Code is amended to read:

“Section 56‑5‑5640. If an abandoned vehicle has not been reclaimed 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 sold at a public auction pursuant to Section 29‑15‑10. The vehicle’s purchaser shall take title to the vehicle 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 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 to ~~a demolisher~~ an automotive dismantler or recycler or secondary metals recycler for demolition, wrecking, or dismantling, and in such case no further titling of the vehicle is necessary. The expenses of the auction, the costs of towing, preserving, and storing the vehicle which resulted from placing the vehicle in custody, and all notice and publication costs incurred pursuant to Section 29‑15‑10 must be reimbursed up to the amount of the auction sale price from the vehicle’s sale proceeds. The remaining sale proceeds must be held for the vehicle’s owner or entitled lienholder for ninety days. The magistrate shall notify the vehicle’s owner and all lienholders by certified or registered mail, return receipt requested, that the vehicle’s owner or lienholder has ninety days to claim the proceeds from the vehicle’s sale. If the vehicle’s proceeds are not collected within ninety days from the day after the notice to the vehicle’s owner and all lienholders is mailed, then the vehicle’s proceeds must be deposited in the county or municipality’s general fund.”

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

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

(B)(1) Except as provided by subsections (C), (D), and (E), a person or entity may not dispose of a vehicle to ~~a demolisher~~ an automotive dismantler or recycler 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~~ automotive dismantler or recycler or secondary metals recycler.

(2) The ~~demolisher~~ automotive dismantler or recycler or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the ~~demolisher~~ automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ An automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ an automotive dismantler or recycler 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~~ automotive dismantler or recycler or secondary metals recycler.

(2) The ~~demolisher~~ automotive dismantler or recycler or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the ~~demolisher~~ automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ An automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ an automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ an automotive dismantler or recycler 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~~ an automotive dismantler or recycler or secondary metals recycler. A disposal authority certificate may contain multiple listings.

(3) The ~~demolisher~~ automotive dismantler or recycler or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the ~~demolisher~~ automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ An automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ an automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ automotive dismantler or recyclers and secondary metals recyclers.

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

(5) The ~~demolisher~~ automotive dismantler or recycler 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. ~~A demolisher~~ an automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ An automotive dismantler or recycler 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 after the transaction has taken place.

(F) ~~A demolisher~~ An automotive dismantler or recycler 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~~ An automotive dismantler or recycler or secondary metals recycler shall keep an accurate and complete record of all vehicles purchased or received by the ~~demolisher~~ automotive dismantler or recycler or secondary metals recycler in the course of business. ~~A demolisher~~ An automotive dismantler or recycler, 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~~ automotive dismantler or recycler in the course of business. These records must contain, at a minimum:

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

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

(c) the name and address 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~~ automotive dismantler or recycler 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~~ automotive dismantler or recycler or secondary metals recycler has a photo or copy of the person or entity’s agent’s identification on file, the ~~demolisher~~ automotive dismantler or recycler 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 identification number of the vehicle or vehicle 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 must be kept open for inspection by any law enforcement officer at any time during normal business hours. All vehicles on the ~~demolisher~~ automotive dismantler or recycler or secondary metals recycler’s property or otherwise in the possession of the ~~demolisher~~ automotive dismantler or recycler 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~~ automotive dismantler or recycler or secondary metals recycler for at least one year after the transaction to which it applies. ~~A demolisher~~ An automotive dismantler or recycler 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.

(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 knowingly and intentionally 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 and not 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 and not more than five hundred dollars, imprisoned not more than one year, or both; 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, imprisoned not more than five 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 knowingly and intentionally 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 and not more than three hundred dollars or imprisoned not more than thirty days. The court may order a defendant seller under this subsection to make restitution to an automotive dismantler or recycler, secondary metals recycler, 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 four hundred dollars and not more than five hundred dollars, imprisoned not more than one year, or both. The court may order a defendant seller under this subsection to make restitution to an automotive dismantler or recycler, secondary metals recycler, 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, imprisoned not more than five years, or both. The court may order a defendant seller under this subsection to make restitution to an automotive dismantler or recycler, secondary metals recycler, 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~~ an automotive dismantler or recycler 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~~ automotive dismantlers or recyclers or secondary metals recyclers, the development of an electronic system for ~~demolishers~~ automotive dismantlers or recyclers 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~~ automotive dismantling and recycling 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 3. Section 56‑5‑5810 of the 1976 Code is amended to read:

“Section 56‑5‑5810. For the purposes of this article and Article 39:

(a) ‘Officer’ means any state, county, or municipal law enforcement officer, including county and municipal code enforcement and sanitation officers.

(b) ‘Abandoned vehicle’ means a vehicle required to be registered in this State if operated on a public highway in this State that is left unattended on a highway for more than forty‑eight hours, or a vehicle that has remained on private or other public property for a period of more than seven days without the consent of the owner or person in control of the property.

(c) ‘Derelict vehicle’ means a vehicle required to be registered in this State if operated on a public highway in this State:

(1) whose certificate of registration has expired and the registered owner no longer resides at the address listed on the last certificate of registration on record with the Department of Motor Vehicles; or

(2) whose motor or other major parts have been removed so as either to render the vehicle inoperable or the operation of which would violate Section 56‑5‑4410; or

(3) whose manufacturer’s serial plates, motor vehicle identification numbers, license number plates, and any other means of identification have been removed so as to nullify efforts to locate or identify the registered owner; or

(4) whose registered owner of record disclaims ownership or releases his rights thereto; or

(5) which is more than eight years old and does not bear a current registration.

(d) ~~‘Demolisher’ means any person, firm, or corporation whose business is to convert a vehicle into processed scrap or scrap metal or otherwise to wreck or dismantle such a vehicle.~~

~~(e)~~ ‘Colored tag’ means any type of notice affixed to an abandoned or derelict vehicle advising the owner or the person in possession that it has been declared an abandoned or derelict vehicle and will be treated as such. The tag shall be of sufficient size to be easily discernable and shall contain such information as the Department of Public Safety deems necessary to carry out the provisions of this article.

~~(f)~~ ‘~~Demolisher’ means any person whose business is to convert a vehicle into processed scrap or scrap metal for recycling purposes or otherwise to wreck or dismantle vehicles.~~

~~(g)~~(e) ‘Salvage yard’ means a business or a person who holds a license issued by the State required of all retailers, possesses ten or more derelict vehicles, and regularly engages in buying or selling used vehicle parts.

(f) ‘Secondary metals recycler’ means a person or entity that 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.”

SECTION 4. Section 56‑5‑5945 of the 1976 Code is amended to read:

“Section 56‑5‑5945. (A) For purposes of this section, ‘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.

(B)(1) Except as provided by subsections (C), (D), and (E), a person or entity may not dispose of a vehicle to ~~a demolisher~~ an automotive dismantler or recycler 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~~ automotive dismantler or recycler or secondary metals recycler.

(2) The ~~demolisher~~ automotive dismantler or recycler or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the ~~demolisher~~ automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ An automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ an automotive dismantler or recycler 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~~ automotive dismantler or recycler or secondary metals recycler.

(2) The ~~demolisher~~ automotive dismantler or recycler or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the ~~demolisher~~ automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ An automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ an automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ an automotive dismantler or recycler 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~~ an automotive dismantler or recycler or secondary metals recycler. A disposal authority certificate may contain multiple listings.

(3) The ~~demolisher~~ automotive dismantler or recycler or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the ~~demolisher~~ automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ An automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ an automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ automotive dismantler or recyclers and secondary metals recyclers.

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

(5) The ~~demolisher~~ automotive dismantler or recycler 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. ~~A demolisher~~ An automotive dismantler or recycler 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~~ automotive dismantler or recycler 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~~ An automotive dismantler or recycler 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 after the transaction has taken place.

(F) ~~A demolisher~~ An automotive dismantler or recycler 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~~ An automotive dismantler or recycler or secondary metals recycler shall keep an accurate and complete record of all vehicles purchased or received by the ~~demolisher~~ automotive dismantler or recycler or secondary metals recycler in the course of business. ~~A demolisher~~ An automotive dismantler or recycler, 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~~ automotive dismantler or recycler in the course of business. These records must contain, at a minimum:

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

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

(c) the name and address 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~~ automotive dismantler or recycler 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~~ automotive dismantler or recycler or secondary metals recycler has a photo or copy of the person or entity’s agent’s identification on file, the ~~demolisher~~ automotive dismantler or recycler 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 identification number of the vehicle or vehicle 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 must be kept open for inspection by any law enforcement officer at any time during normal business hours. All vehicles on the ~~demolisher~~ automotive dismantler or recycler or secondary metals recycler’s property or otherwise in the possession of the ~~demolisher~~ automotive dismantler or recycler 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~~ automotive dismantler or recycler or secondary metals recycler for at least one year after the transaction to which it applies. ~~A demolisher~~ An automotive dismantler or recycler 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.

(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 knowingly and intentionally 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 and not 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 and not more than five hundred dollars, imprisoned not more than one year, or both; 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, imprisoned not more than five 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 knowingly and intentionally 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 and not more than three hundred dollars or imprisoned not more than thirty days. The court may order a defendant seller under this subsection to make restitution to an automotive dismantler or recycler, secondary metals recycler, 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 four hundred dollars and not more than five hundred dollars, imprisoned not more than one year, or both. The court may order a defendant seller under this subsection to make restitution to an automotive dismantler or recycler, secondary metals recycler, 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, imprisoned not more than five years, or both. The court may order a defendant seller under this subsection to make restitution to an automotive dismantler or recycler, secondary metals recycler, 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~~ an automotive dismantler or recycler 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~~ automotive dismantler or recyclers or secondary metals recyclers, the development of an electronic system for ~~demolishers~~ automotive dismantler or recyclers 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~~ automotive dismantling and recycling industry, secondary metals recycling industry, trucking industry, law enforcement agencies, and other relevant agencies, organizations, or industries as determined by the director, or the director’s designee.”

SECTION 5. Section 56‑19‑480(A) of the 1976 Code is amended to read:

“Section 56‑19‑480. (A) An owner who scraps, dismantles, destroys, or in any manner disposes to another, except to ~~a demolisher~~ an automotive dismantler or recycler or secondary metals recycler, as wreckage or salvage, a motor vehicle otherwise required to be titled in this State immediately shall mail or deliver to the Department of Motor Vehicles the vehicle’s certificate of title notifying the department to whom the vehicle is delivered together with a report indicating the type and severity of any damage to the vehicle. A person or entity who disposes of a vehicle to ~~a demolisher~~ an automotive dismantler or recycler or secondary metals recycler shall provide the vehicle’s title certificate to the ~~demolisher~~ automotive dismantler or recycler or secondary metals recycler so that the ~~demolisher~~ automotive dismantler or recycler 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 6. Section 56‑3‑1380 of the 1976 Code is amended to read:

“Section 56‑3‑1380. An owner who dismantles or wrecks a vehicle registered and licensed pursuant to this chapter shall forward to the Department of Motor Vehicles the registration card, license plate, and revalidation sticker last issued for the vehicle. A person or entity who disposes of a vehicle to ~~a demolisher~~ an automotive dismantler or recycler or secondary metals recycler shall provide the vehicle’s title certificate to the ~~demolisher~~ automotive dismantler or recycler or secondary metals recycler so that the ~~demolisher~~ automotive dismantler or recycler 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 7. Section 16‑17‑680(D), (E), and (J)(1)(e) of the 1976 Code is amended to read:

“(D)(1) It is unlawful to purchase nonferrous metals in any amount for the purpose of recycling the nonferrous metals from a seller 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 and size or other description of the nonferrous metals purchased, the amount paid for 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 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 one year from the date of purchase.

(4) A secondary metals recycler shall not enter into a cash transaction in payment for the purchase of copper, catalytic converters, or beer kegs, which totals twenty‑five dollars or more. Payment for the purchase of copper, catalytic converters, or beer kegs, which totals twenty‑five dollars or more 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. A secondary metals recycler shall not enter into more than one cash transaction per day per seller in payment for the purchase of copper, catalytic converters, or beer kegs.

(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.’

(6) A purchaser who knowingly and intentionally violates ~~a~~ any provision of this ~~subsection~~ 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~~ felony, and, upon conviction, must be fined not ~~more~~ less than one thousand dollars or imprisoned not more than ~~three~~ five 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 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~~ not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than ~~one year~~ thirty days, or both. The court may order a defendant seller under this subsection to make restitution to an automotive dismantler or recycler, secondary metals recycler, or lien holder for any damage or loss caused by the defendant seller arising out of an offense committed by the defendant seller;

(ii) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than ~~five~~ four hundred dollars nor more than five hundred dollars or imprisoned not more than ~~three years~~ one year, or both. The court may order a defendant seller under this subsection to make restitution to an automotive dismantler or recycler, secondary metals recycler, or lien holder for any damage or loss caused by the defendant seller arising out of an offense committed by the defendant seller; 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. The court may order a defendant seller under this subsection to make restitution to an automotive dismantler or recycler, secondary metals recycler, or lien holder for any damage or loss caused by the defendant seller arising out of an offense committed by the defendant seller.

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~~ not less than one thousand dollars or imprisoned not more than five years, or both. The purchaser’s permit must be revoked.

(J)(1)(e) a seller who is a holder of a retail license, an authorized wholesaler, ~~an automobile demolisher~~ an automotive dismantler or recycler as defined in Section 56‑5‑5810(d), a contractor licensed pursuant to Chapter 11, Title 40, a real estate broker or property manager licensed pursuant to Chapter 57, 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”

SECTION 8. The Code Commissioner is directed to change or correct all applicable references to “demolishers” in the 1976 Code to “automotive dismantler or recyclers”. References to demolishers in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

SECTION 9. This act takes effect upon approval by the Governor.

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