~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 11, 2021

**H. 3991**

Introduced by Reps. Rutherford and Wooten

S. Printed 3/11/21--H.

Read the first time March 2, 2021.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3991) to amend Section 16‑17‑680, Code of Laws of South Carolina, 1976, relating to permits to purchase nonferrous metals, transportation and sale of nonferrous metals, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 16‑17‑680(I) and (J) of the 1976 Code is amended to read:

“(I)(1) A secondary metals recycler shall not purchase or otherwise acquire:

~~(1)~~(a) an iron or steel manhole cover;

~~(2)~~(b) an iron or steel drainage grate; ~~or~~

~~(3)~~(c) a coil, unless the seller is an exempted entity pursuant to subsection (J)(1)(e) or the seller presents a bill of sale from a company licensed pursuant to Chapter 11, Title 40 indicating that the seller acquired the coil as the result of a unit replacement or repair. The bill of sale is sufficient proof of ownership and serves the same purpose as a permit to transport and sell nonferrous metals. A person who presents a falsified bill of sale is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more three years, or both.

(2) It is illegal for any individual or entity other than a licensed and permitted secondary metals recycler to purchase or otherwise acquire a used, detached catalytic converter or any nonferrous part of a catalytic converter.

(a) A secondary metals recycler shall not purchase or otherwise acquire a catalytic converter or any nonferrous part of a catalytic converter unless purchased as part of a vehicle or purchased from:

(i) a new motor vehicle dealer, manufacturer or distributor of catalytic converters, vehicle demolisher, or salvage yard whose valid business license is copied by the secondary metals recycler at the time of the purchase transaction; or

(ii) a permitted individual who provides the secondary metals recycler with the following for the motor vehicle that the catalytic converter was taken from the:

(aa) name of the person or company that removed the catalytic converter;

(bb) name of the person for whom the work was completed;

(cc) make and model of the vehicle from which the catalytic converter was removed;

(dd) vehicle identification number of the vehicle from which the catalytic converter was removed;

(ee) part number or other identifying number of the catalytic converter that was removed; and

(ff) certificate of title or certificate of registration showing the seller’s ownership interest in the vehicle.

(b) Before each purchase or acquisition of a used, detached catalytic converter, every secondary metals recycler, including an agent, employee, or representative of the dealer, shall:

(i) verify, with the applicable documentation that the person transferring or selling the used, detached catalytic converter acquired it legally and has the right to transfer or sell it; and

(ii) retain a record of the applicable verification and other information required pursuant to subsection (D)(2).

(3) All sellers of used, detached catalytic converters or any nonferrous metal part of such are subject to the provisions of subsection (C) regarding the permitting of a person or entity to transport and sell nonferrous metals.

(4) Any person in possession of a used, detached catalytic converter is presumed to be in possession of contraband subject to forfeiture as otherwise provided by law unless the person in possession possesses a valid permit and is:

(a) a secondary metals recycler, new or used motor vehicle dealer, motor vehicle repairer, motor vehicle manufacturer, vehicle demolisher, or distributor of catalytic converters; or

(b) an individual in possession of no more than two used, detached catalytic converters with the certificate of title or certificate of registration showing the individual’s ownership interest in the motor vehicle that the catalytic converter was removed from or a receipt documenting the replacement of a catalytic converter from a vehicle registered in that individual’s name.

(5) An entity or individual who violates the provisions of this section is subject to the penalties provided in Section 16‑11‑523 and each illegally obtained, possessed, used, or detached catalytic converter subjects the individual or entity to a separate charge for each violation. Any entity or individual who violates the provisions of this section also is liable for the repair and replacement of the catalytic converter as may be ordered by the court or as otherwise provided by law.

(J)(1) Except as provided in item (2), 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 seller who is 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 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

(f) a seller that is an organization, a corporation, or an association registered with the State as a charitable organization or a nonprofit corporation.

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

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).” /

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER III for Committee.

**A** **BILL**

TO AMEND SECTION 16‑17‑680, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERMITS TO PURCHASE NONFERROUS METALS, TRANSPORTATION AND SALE OF NONFERROUS METALS, AND VARIOUS OFFENSES ASSOCIATED WITH NONFERROUS METALS, SO AS TO INCLUDE IN THE PURVIEW OF THE STATUTE PROCEDURES FOR THE LAWFUL PURCHASE, SALE, AND POSSESSION OF USED, DETACHED CATALYTIC CONVERTERS OR ANY NONFERROUS PART OF ONE UNLESS PURCHASED, SOLD, OR POSSESSED UNDER CERTAIN DELINEATED CIRCUMSTANCES.

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

SECTION 1. Section 16‑17‑680(I) of the 1976 Code is amended to read:

“(I)(1) A secondary metals recycler shall not purchase or otherwise acquire:

~~(1)~~(a) an iron or steel manhole cover;

~~(2)~~(b) an iron or steel drainage grate; ~~or~~

~~(3)~~(c) a coil, unless the seller is an exempted entity pursuant to subsection (J)(1)(e) or the seller presents a bill of sale from a company licensed pursuant to Chapter 11, Title 40 indicating that the seller acquired the coil as the result of a unit replacement or repair. The bill of sale is sufficient proof of ownership and serves the same purpose as a permit to transport and sell nonferrous metals. A person who presents a falsified bill of sale is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more three years, or both; or

(d) a used, detached catalytic converter or any nonferrous metal part of a such unless:

(i) purchased at the fixed site of the permitted secondary metals recycler in which the used, detached catalytic converter is purchased in person. The shipping of a used, detached catalytic converter or any part of such is prohibited, except that transactions between licensed entities as delineated in item (2)(a) are exempt from the in‑person purchase requirements of this subsubitem as long as the permitted secondary metals recycler seller maintains a fixed site;

(ii) the permitted secondary metals recycler obtains and maintains all identification and documentation required by the provisions of subsection (D) and, in addition, obtains and maintains a copy of the seller’s license as required in item (2)(a) or a copy of the documentation and vehicle registration as required in item (2)(b); and

(iii) the permitted secondary metals recycler notes in their records any obvious marking on the used, detached catalytic converter such as paint, labels, or engravings that would aid in the identification of the catalytic converter.

(2) All sellers of used, detached catalytic converters or any nonferrous metal part of such are subject to the provisions of subsection (C) regarding the permitting of a person or entity to transport and sell nonferrous metals; and

(a) only a licensed demolisher, as defined in Section 56‑5‑5810, a secondary metals recycler, as defined in subsection (A), a licensed motor vehicle dealer, a licensed mechanic or licensed automotive repair facility, or other licensed business that may reasonably generate, possess, or sell used, detached catalytic converters may possess such; or

(b) an individual may possess and sell a used, detached catalytic converter only if he possesses documentation indicating that the catalytic converter in his possession is the result of a replacement of a catalytic converter from a vehicle registered in that individual’s name.

(3) Possession of a used, detached catalytic converter by anyone other than an entity or individual as provided in item (2) is presumed to be in possession of contraband subject to forfeiture as otherwise provided by law.

(4) Used, detached catalytic converters may be purchased only by secondary metals recyclers.

(5) An entity or individual who violates the provisions of this item is subject to the penalties provided in this section and each illegally obtained or possessed used, detached catalytic converter subjects the bearer to a separate charge for each violation. The bearer also is liable for the repair and replacement of the catalytic converter as may be ordered by the court or as otherwise provided by law.”

SECTION 2. This act takes effect upon approval by the Governor.

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