

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 323

Short Title: Prevent the Theft of Scrap Metals. (Public)

Sponsors: Representatives Gulley, Tillis (Primary Sponsors); K. Alexander, M. Alexander, Cotham, Hurley, Johnson, Justus, Killian, Lucas, Neumann, Starnes, and Wray.

Referred to: Commerce, Small Business, and Entrepreneurship, if favorable, Judiciary III.

March 2, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO STRENGTHEN THE REQUIREMENTS REGARDING SECONDARY
3 METALS RECYCLING OF REGULATED METALS PROPERTY IN ORDER TO
4 PREVENT THE THEFT OF THIS PROPERTY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 66-11 reads as rewritten:

7 "§ 66-11. Dealing in regulated metals property; penalties.

8 (a) Definitions. – As used in this section:

9 (1) "Law enforcement officer" means any duly constituted law enforcement
10 officer of the State or of any municipality or county.

11 (2) "Regulated metals property" means all ferrous and nonferrous metals.

12 (3) "Secondary metals recycler" means any person, firm, or corporation in the
13 State:

14 a. That, from a fixed location or otherwise, is engaged in the business
15 of gathering or obtaining ferrous or nonferrous metals that have
16 served their original economic purpose or is in the business of
17 performing the manufacturing process by which ferrous metals or
18 nonferrous metals are converted into raw material products
19 consisting of prepared grades and having an existing or potential
20 economic value; or

21 b. That has facilities for performing the manufacturing process by
22 which ferrous metals or nonferrous metals are converted into raw
23 material products consisting of prepared grades and having an
24 existing or potential economic value, by methods including, but not
25 limited to, the processing, sorting, cutting, classifying, cleaning,
26 baling, wrapping, shredding, shearing, or changing the physical form
27 or chemical content of the metals, but not including the exclusive use
28 of hand tools.

29 (4) "Fixed location" means any site occupied by a secondary metals recycler as
30 the owner of the site or as a lessee of the site under a lease or other rental
31 agreement providing for occupation of the site by the secondary metals
32 recycler for a total duration of not less than 364 days.

33 (a1) Receipt Required. – A secondary metals recycler shall issue a receipt to the person
34 delivering the regulated metals property for all purchase transactions in which the secondary
35 metals recycler purchases regulated metals property. This receipt shall be signed by both the
36 person receiving the materials and the person delivering the materials. The person delivering



1 the materials shall place next to that person's signature on the receipt a clear impression of that
2 person's index finger that is in ink and free of any smearing.

3 (b) Records Required. –

4 (1) A secondary metals recycler shall maintain a record of all purchase
5 transactions in which the secondary metals recycler purchases regulated
6 metals property.

7 (2) The following information shall be maintained for transactions in which a
8 secondary metals recycler purchases regulated metals property:

9 a. The name and address of the secondary metals recycler.

10 b. The name, initials, or other identification of the individual entering
11 the information.

12 c. The date of the transaction.

13 d. The weight of the regulated metals property purchased.

14 e. The description made in accordance with the custom of the trade of
15 the type of regulated metals property purchased and the physical
16 address where the regulated metals were obtained by the seller, and a
17 statement signed by the seller or the seller's agent certifying that the
18 seller or the seller's agent has the lawful right to sell and dispose of
19 the property.

20 f. The amount of consideration given for the regulated metals property.

21 g. The name and address of the vendor of the regulated metals property
22 and the license plate number of the vehicle used to deliver the
23 regulated metals.

24 h. A photocopy or electronic scan of the drivers license or state or
25 federally issued photo identification card of the person delivering the
26 regulated metals property to the secondary metals recycler. If the
27 secondary metals recycler has a copy of the valid photo identification
28 of the person delivering the regulated metals property on file, the
29 secondary metals recycler must examine the photo identification, but
30 may reference the photo identification that is on file without making
31 a separate photocopy or electronic scan for each subsequent
32 transaction. If the person delivering the regulated metals property
33 does not have a drivers license or a state or federally issued photo
34 identification card, the secondary metals recycler shall not complete
35 the transaction.

36 i. A copy of the receipt required under subsection (a1) of this section
37 when all the information required under subsection (a1) of this
38 section is clear and legible, or in the event the copy of the receipt is
39 not clear or not legible, the original receipt.

40 j. If required under subdivision (3) of subsection (d) of this section, the
41 written documentation showing ownership of the regulated metals
42 property.

43 (3) A secondary metals recycler shall keep and maintain the information
44 required under this subsection for not less than two years from the date of
45 the purchase of the regulated metals property.

46 (c) Inspection of Regulated Metals Property and Records. – During the usual and
47 customary business hours of a secondary metals recycler, a law enforcement officer shall have
48 the right to inspect ~~either~~ all of the following:

49 (1) Any and all purchased regulated metals property in the possession of the
50 secondary metals recycler.

1 (2) Any and all records required to be maintained under subsection (b) of this
2 section.

3 A secondary metals recycler shall make receipts for the purchase of regulated metals property
4 available for pickup each regular workday if requested by the sheriff or chief of police of the
5 county or the chief of police of the municipality in which the secondary metals recycler is
6 located. The sheriff or the chief of police may request these receipts to be electronically
7 transferred directly to the law enforcement agency.

8 (d) Purchase Limitations. – No secondary metals recycler shall do any of the following:

9 (1) Purchase regulated metals property for ~~each consideration from other than a~~
10 ~~fixed location~~ any consideration other than check or money order that is
11 mailed to the address of the seller.

12 (2) Purchase or receive regulated metals property from minors from other than a
13 fixed location, provided that this provision does not apply to the purchase of
14 aluminum in the form of ~~beverage or~~ food cans.

15 (3) Purchase any of the following regulated metals property, unless written
16 documentation is provided to the secondary metals recycler that shows to the
17 satisfaction of that recycler that the seller is the owner of the regulated
18 metals property or is an employee, agent, or other person authorized to sell
19 the property on behalf of the owner:

20 a. Any catalytic converter.

21 b. Any regulated metal marked with the initials or other identification
22 of a telephone, cable, electric, water, or other public utility, or any
23 brewer.

24 c. Any utility access cover.

25 d. Any street light pole or fixture.

26 e. Any road or bridge guard rail.

27 f. Any highway or street sign.

28 g. Any water meter cover.

29 h. Any metal beer keg, including any made of stainless steel that is
30 clearly marked as being the property of the beer manufacturer.

31 i. Any traffic directional or control sign.

32 j. Any traffic light signal.

33 k. Any regulated metal marked with the name of a government entity.

34 l. Any property owned by a telephone, cable, electric, water, or other
35 public utility, or owned by a railroad, and marked or otherwise
36 identified as such.

37 m. Any unused and undamaged building construction or utility material
38 consisting of copper, pipe, tubing, or wiring, any aluminum wire, any
39 historical marker, or any grave marker or burial vase.

40 n. Any air conditioner evaporator coil or condenser, in whole or in part.

41 (d1) Retain Metals for Seven Days Before Selling or Altering. – Any secondary metals
42 recycler owner convicted of a felonious violation of this Chapter, G.S. 14-71, 14-71.1, or 14-72
43 shall hold and retain any regulated metals product, except for iron and steel products, for seven
44 days from the date of purchase before selling, dismantling, defacing, or in any manner altering
45 or disposing of the regulated metals property.

46 (e) Right to Restitution. – The court may order a defendant to make restitution to the
47 secondary metals recycler for any damage or loss caused by the defendant arising out of an
48 offense committed by the defendant.

49 (e1) Theft Notification to Recycler. – Any person may notify a secondary metals
50 recycler of regulated metals property of a known or presumed theft of regulated metals

1 products by providing any information concerning the theft that is available to that person,
2 including any one or more of the following:

3 (1) The approximate quantity and size of the regulated metals products stolen.

4 (2) The geographical area from which the regulated metals products were
5 reported missing or presumed stolen.

6 (3) Any specific distinguishing marks on or in the regulated metals products or
7 any other method of identifying the regulated metals products.

8 (e2) Theft Notification to Law Enforcement. – If any regulated metals products meeting
9 the description in the notice under subsection (e1) of this section are purchased by the
10 secondary metals recycler or offered for sale to the secondary metals recycler within 90 days of
11 the recycler receiving this notice, the secondary metals recycler shall notify the local police or
12 sheriff that the regulated metals products were purchased by or offered for sale to the recycler.

13 (f) Violations. – Unless the conduct is covered by some other provision of law
14 providing greater punishment, any person knowingly and willfully violating any of the
15 provisions of this section shall be guilty of a Class 1 misdemeanor for a first offense. A second
16 or subsequent violation of this section is a Class I felony.

17 (g) Exemptions. – This section shall not apply to purchases of regulated metals property
18 from a manufacturing, industrial, or other commercial vendor that generates or sells regulated
19 metals property in the ordinary course of its business. This section does not apply to purchases
20 of regulated metals property that involve only beverage containers.

21 (h) Preemption. – A county or municipality shall not enact any local law, ordinance, or
22 regulation regulating secondary metals recyclers or regulated metals property that conflicts
23 with this section, and this law preempts all existing laws, ordinances, or regulations."

24 **SECTION 2.** This act becomes effective October 1, 2009, and applies to purchases
25 and offers of purchase that occur on or after that date.