**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3689**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Bales, Whipper, Mitchell, Allen, Anderson, Anthony, Battle, Branham, G.A. Brown, R.L. Brown, Cobb‑Hunter, Dillard, Hayes, Hosey and J.R. Smith

Document Path: l:\council\bills\ms\7122ahb11.docx

Introduced in the House on February 15, 2011

Currently residing in the House Committee on **Judiciary**

Summary: Nonferrous metals

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/15/2011 House Introduced and read first time ([House Journal‑page 14](file:///h:\hj%20archive\2011\02-15-11.docx))

2/15/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 14](file:///h:\hj%20archive\2011\02-15-11.docx))

2/24/2011 House Member(s) request name removed as sponsor: Gilliard

**VERSIONS OF THIS BILL**

[2/15/2011](file:///p:\pprever\2011-12\3689_20110215.docx)

**A** **BILL**

TO AMEND SECTION 16‑17‑680, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PURCHASE OF NONFERROUS METALS, RECORDS REQUIRED TO BE KEPT BY SECONDARY METALS RECYCLERS, AND PENALTIES FOR THE UNLAWFUL PURCHASE OF NONFERROUS METALS, SO AS TO EXPAND THE DEFINITION OF “NONFERROUS METALS”, TO REQUIRE ADDITIONAL INFORMATION TO BE COLLECTED, MAINTAINED, AND TRANSMITTED TO THE DEPARTMENT OF REVENUE, TO REQUIRE THE DEPARTMENT OF REVENUE TO MAINTAIN THE INFORMATION ON SAME-DAY SALES ON ITS WEBSITE, TO REQUIRE SECONDARY METALS RECYCLERS TO BE BONDED, AND TO INCREASE THE FINE FOR A VIOLATION AND REQUIRE THE REVOCATION OF A RETAIL OR WHOLESALE LICENSE FOR THIRD AND SUBSEQUENT VIOLATIONS; AND TO AMEND SECTION 16‑17‑685, RELATING TO THE UNLAWFUL TRANSPORTATION OF NONFERROUS METALS, SO AS TO CONFORM THE DEFINITION OF “NONFERROUS METALS” TO THAT OF SECTION 16‑17‑680.

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

SECTION 1. Section 16‑17‑680 of the 1976 Code, as last amended by Act 26 of 2009, is further amended to read:

“Section 16‑17‑680. (A)(1) It is unlawful to purchase nonferrous metals in any amount from a person who is not a holder of a retail license or an authorized wholesaler unless the purchaser is a secondary metals recycler and obtains and can verify the name and address of the seller. A secondary metals recycler shall maintain a record containing the date of purchase, name and address of the seller, a photocopy of the seller’s driver’s license or other form of picture identification, the license plate number of the seller’s motor vehicle and a photograph of the license plate, the seller’s photograph and a photograph of the nonferrous metals purchased, a photocopy of the check written for the purchase of the nonferrous metals, weight or length, and size or other description of the nonferrous metals purchased, amount paid for it, and a signed statement from the seller stating that he is the rightful owner or is entitled to sell the nonferrous metals being sold. 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 two years from the date of purchase.

(B) A secondary metals recycler may ~~only~~ not purchase nonferrous metals for cash consideration ~~from a fixed location~~ but must do so by check only. A copy of each check issued along with a photocopy of the seller’s driver’s license or other form of picture identification must be electronically transmitted to the Department of Revenue along with the other records required to be maintained by a secondary metals recycler pursuant to subsection (A). The Department of Revenue is directed to create and maintain on its website a page displaying all sales of nonferrous metals taking place in the State the same day of the sale.

(C)(1) ~~Whenever~~ When a law enforcement officer has reasonable cause to believe that ~~any~~ an item of nonferrous metal in the possession of a secondary metals recycler has been stolen, the law enforcement officer may issue a hold notice to the secondary metals recycler. The hold notice must be in writing, be delivered to the secondary metals recycler, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the notice, and inform the secondary metals recycler of the information contained in this subsection. Upon receipt of the notice, the secondary metals recycler must not process or remove the items of nonferrous metal identified in the notice, or any portion ~~thereof~~ of it, from the secondary metal recycler’s place of business for fifteen calendar days after receipt of the notice unless released prior to the fifteen‑day period by the law enforcement officer.

(2) No later than the expiration of the fifteen‑day period, a law enforcement officer may issue a second hold notice to the secondary metals recycler, which ~~shall be~~ is an extended hold notice. The extended hold notice must be in writing, be delivered to the secondary metals recycler, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the extended hold notice, and inform the secondary metals recycler of the information contained in this subsection. Upon receipt of the extended hold notice, the secondary metals recycler must not process or remove the items of nonferrous metal identified in the notice, or any portion ~~thereof~~ of it, from the secondary metals recycler’s place of business for thirty calendar days after receipt of the extended hold notice unless released prior to the thirty‑day period by the law enforcement officer.

(3) At the expiration of the hold period or, if extended, at the expiration of the extended hold period, the hold is automatically released and the secondary metals recycler may dispose of the nonferrous metals unless other disposition has been ordered by a court of competent jurisdiction.

(D) Every secondary metals recycler shall file a bond, or be covered by a surety bond, with the Department of Revenue in the amount of not less than one hundred thousand dollars.

(E) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor and, upon conviction, must be fined not more than ~~two hundred~~ five thousand dollars or imprisoned not more than thirty days for a first offense. This offense is triable in magistrates court;

(2) misdemeanor and, upon conviction, must be fined not more than five ~~hundred~~ thousand dollars or imprisoned not more than one year, or both, for a second offense;

(3) misdemeanor and, upon conviction, must be fined not more than ~~one~~ five thousand dollars or imprisoned not more than three years, or both, for a third or subsequent offense. For ~~an offense to be considered~~ a third or subsequent offense, ~~only those offenses which 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 section~~ the secondary metal recycler must have his retail or wholesale license permanently revoked.

~~(E)~~(F) For purposes of this section, the only identification acceptable is a:

(1) valid South Carolina driver’s license;

(2) South Carolina identification card issued by the Department of Motor Vehicles;

(3) valid driver’s license from another state that contains the licensee’s picture on the face of the license; or

(4) valid military identification card.

~~(F)~~(G) For purposes of this section:

(1) ‘Nonferrous metals’ means metals not containing significant quantities of iron or steel, including copper wire, ~~cooper~~ copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum, a product that is a mixture of aluminum and copper, catalytic converters, ~~and~~ stainless steel beer kegs or containers, trucks, cars, trailers, and construction equipment or materials including, but not limited to, steel plate and catch basin tops.

(2) ‘Secondary metals recycler’ means any person who is engaged 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.

(3) ‘Fixed location’ means any site occupied by a secondary metals recycler as the owner of the site or as a lessee of the site under a lease or other rental agreement providing for occupation of the site by a secondary metals recycler for a total duration of not less than three hundred and sixty‑four days.

~~(G)~~(H) The provisions of this section do not apply to the purchase or sale of aluminum cans.

~~(H)~~(I) This section preempts local ordinances and regulations governing the purchase or sale of nonferrous metals in any amount, except to the extent that such ordinances pertain to zoning or business license fees. This section shall not preempt the ability of a political subdivision of the State to enact ordinances or regulations pertaining to zoning or business license fees. Political subdivisions of the State may not enact ordinances or regulations more restrictive than those contained in this section.”

SECTION 2. Section 16-17-685(A)(1) of the 1976 Code, as added by Act 26 of 2009, is amended to read:

“(1) ‘Nonferrous metals’ means metals not containing significant quantities of iron or steel, including copper wire, ~~cooper~~ copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum, a product that is a mixture of aluminum and copper, catalytic converters, ~~and~~ stainless steel beer kegs or containers, trucks, cars, trailers, and construction equipment or materials including, but not limited to, steel plate and catch basin tops.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑