~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 31, 2021

**H. 3991**

Introduced by Reps. Rutherford, Wooten, Caskey, Thigpen, B. Cox, Elliott, Erickson, S. Williams and Rivers

S. Printed 3/31/21--S.

Read the first time March 23, 2021.

**THE COMMITTEE ON JUDICIARY**

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. Sections 16‑17‑680(G), (I), and (J) of the 1976 Code are amended to read:

“(G)(1) It is unlawful to transport nonferrous metals in a vehicle or have nonferrous metals in a person's possession ~~in a vehicle on the highways of this State~~.

(2) Subsection (G)(1) does not apply if:

(a) the person can present a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C); or

(b) the person can present a valid bill of sale for the nonferrous metals.

(3) If a law enforcement officer determines that one or more of the exceptions listed in subsection (G)(2) applies, or the law enforcement officer determines that the nonferrous metals are not stolen goods and are in the rightful possession of the person, the law enforcement officer shall not issue a citation for a violation of this subsection.

(4) A person who violates a provision of subsection (G)(1):

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than two 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 more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three 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.

(5) If a person transports nonferrous metals that the person knows are stolen in a vehicle or has in the person's possession ~~in a vehicle on the highways of this State~~ nonferrous metals that the person knows are stolen, is operating a vehicle used in the ordinary course of business to transport nonferrous metals that the person knows are stolen, presents a valid or falsified permit to transport and sell nonferrous metals that the person knows are stolen, or presents a valid or falsified bill of sale for nonferrous metals that the person knows to be stolen, the person is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. If the person obtained a permit to transport and sell nonferrous metals pursuant to subsection (C), the permit must be revoked.”

“(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)(a) It is unlawful for any individual or entity other than a permitted secondary metals recycler to purchase, obtain, otherwise acquire or to attempt to purchase, obtain, or otherwise acquire a used, detached catalytic converter or any nonferrous part of a catalytic converter.

(b) It is unlawful for any individual or entity to possess, transport, or sell a used, detached catalytic converter or any nonferrous part of a catalytic converter without a permit and without providing the following documentation to law enforcement and/or a permitted secondary metals recycler:

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

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

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

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

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

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

(c) It is unlawful for a seller of a used, detached catalytic converter or any nonferrous part of a catalytic converter to provide any false, fraudulent, altered or counterfeit information or documentation as required by this subsection.

(d) An individual or entity who violates any provision of subsection (I)(2), for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both; or for a second offense, is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

(e) Each unlawfully obtained, possessed, or transported used, detached catalytic converter is a separate violation that subjects the individual or entity to a separate charge. Upon conviction, the court may order the individual or entity to pay restitution for the value of the repair and replacement of the catalytic converter or the individual or entity may be held liable as otherwise provided by law. A person in possession of a used, detached catalytic converter without identifying documentation is presumed to be in possession of contraband subject to forfeiture as otherwise provided by law.

(f) For purposes of this section, a used detached catalytic converter does not include a catalytic converter that has been tested, certified, and labeled for reuse in accordance with applicable U.S. Environmental Protection Agency Clean Air Act regulations, as may from time to time be amended.

(3)(a) It is unlawful for a secondary metals recycler to obtain, purchase, or otherwise acquire a used, detached catalytic converter or any nonferrous part of a used catalytic converter unless the business has a permit from the local sheriff’s office, the sale occurs at the purchaser’s fixed site, and:

(i) the catalytic converter or nonferrous part was purchased as part of a vehicle; or

(ii) the catalytic converter or nonferrous part was purchased from a secondary metals recycler, new or used motor vehicle dealer, automotive repair service, motor vehicle manufacturer, vehicle demolisher, or distributor of catalytic convertors and a copy of the seller’s valid business license is received and maintained by the purchaser at the time of the transaction; or

(iii) the business selling the catalytic converter or nonferrous part provides a record or receipt showing:

(aa) the repair order number, when applicable;

(bb) the date of repair or the date on which the catalytic converter was removed from a vehicle, including the identity of the individual or entity that removed the catalytic converter, when applicable; and

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

(iv) the individual selling the catalytic converter or nonferrous part provides the secondary metals recycler with the following information for the motor vehicle that the catalytic converter was taken from to include all of the following:

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

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

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

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

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

(ff) the 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, the secondary metals recycler, including an agent, employee, or representative of the secondary metals recycler, must:

(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) and note 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.

(c) A seller of used, detached catalytic converters or any nonferrous metal part of such is subject to the provisions of subsection (C) regarding the permitting of a person or entity to transport and sell nonferrous metals except for an automotive repair service who, in lieu of a permit, may produce a record or receipt showing:

(i) the repair order number, when applicable;

(ii) the date of repair or the date on which the catalytic converter was removed from a vehicle, including the identity of the individual or entity that removed the catalytic converter, when applicable; and

(iii) the vehicle identification number of the vehicle from which the catalytic converter was removed.

(d) It is unlawful for a secondary metals recycler to fail to collect or retain all required documentation from a seller of a used, detached catalytic converter or any nonferrous part of a catalytic converter as required by this subsection. A secondary metals recycler who obtains all documentation as required by this subsection is exempt from prosecution under this subsection unless they knew or had reason to believe that the documentation provided was false, fraudulent, altered or counterfeit, or knew or had reason to believe that the used, detached catalytic converter or any nonferrous part of a catalytic converter was stolen.

(e) A licensed secondary metals recycler, who is exempt from the provisions of subsection (I)(2), but who violates a provision of subsection (I)(3):

(i) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days;

(ii) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both; and

(iii) for a third or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both.

(iv) Each illegally obtained or possessed used and detached catalytic converter or part of a used catalytic converter is a separate violation and subjects the individual or entity to a separate charge for each. Any unlawfully possessed used, detached catalytic converter is subject to forfeiture as otherwise provided for by law. Upon conviction, the court may order the individual or entity to pay restitution for the value of the repair and replacement of the catalytic converter or the individual or entity may be held liable as otherwise provided for 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).”

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

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN 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) 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 secondary metals recycler, new or used motor vehicle dealer, automotive repair service, motor vehicle manufacturer, vehicle demolisher, or distributor of catalytic convertors whose valid business license is copied by the secondary metals recycler at the time of the purchase transaction. If the business is unable to produce a valid business license because a business license is unavailable or not required where the business is located, the business must provide a record or receipt showing:

(aa) the repair order number, when applicable;

(bb) the date of repair or the date on which the catalytic converter was removed from a vehicle, including the identity of the individual or entity that removed the catalytic converter; and

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

(ii) an 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 secondary metals recycler, 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) and note 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.

(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 except for an automotive repair service who, in lieu of a permit, may produce a record or receipt showing:

(a) the repair order number, when applicable;

(b) the date of repair or the date on which the catalytic converter was removed from a vehicle, including the identity of the individual or entity that removed the catalytic converter; and

(c) the vehicle identification number of the vehicle from which the catalytic converter was removed.

(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 when required by law and is:

(a) a secondary metals recycler, new or used motor vehicle dealer, automotive repair service, motor vehicle manufacturer, vehicle demolisher, or distributor of catalytic converters and who is in possession of a valid business license verifying the type of business or if the business is unable to produce a valid business license because a business license is unavailable or not required where the business is located, the business must provide a record or receipt showing:

(i) the repair order number, where applicable;

(ii) the date of repair or the date on which the catalytic converter was removed from a vehicle, including the identity of the individual or entity that removed the catalytic converter; and

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

(b) an individual in possession of no more than two used, detached catalytic converters provided the individual has on his person a permit to transport and sell the nonferrous metals as required by this section and the individual is able to produce the information required pursuant to subsection (I)(2)(a)(ii).

(5)(a) It is unlawful for a secondary metals recycler to fail to collect or retain all required documentation from a seller of a used, detached catalytic converter or any nonferrous part of a catalytic converter as required by this subsection. A secondary metals recycler who obtains all documentation as required by this subsection is exempt from prosecution under this subsection unless they knew or had reason to believe that the documentation provided was false, fraudulent, altered or counterfeit, or knew or had reason to believe that the used, detached catalytic converter or any nonferrous part of a catalytic converter was stolen.

(b) A seller of a used, detached catalytic converter or any nonferrous part of a catalytic converter is guilty of providing false or fraudulent information for the sale of a used, detached catalytic converter or any nonferrous part of a catalytic converter as required by this subsection if they provide any false, fraudulent, altered or counterfeit information or documentation as required by this subsection.

(c) An entity or individual who violates the provisions of this section is subject to the penalties provided in Section 16‑11‑523(C) 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).”

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

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