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Indicates New Matter

AMENDED--NOT PRINTED IN THE HOUSE

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May 4, 2021

**H. 3991**

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

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Read the first time March 23, 2021.

**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.

Amend Title To Conform

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

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, or to attempt to purchase, a used, detached catalytic converter or any nonferrous part of a catalytic converter.

(b) Except as otherwise provided in item (3)(a)(iii)(aa), (bb), and (cc) for those businesses delineated in item (3)(a)(ii), it is unlawful for any individual or entity to possess, obtain or otherwise acquire, 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 purchase a used, detached catalytic converter or any nonferrous part of a used catalytic converter unless the secondary metals recycler has a permit from the local sheriff’s office, the sale occurs at the secondary metals recycler’s fixed site or the sale occurs at the seller’s fixed site but only if the seller is a licensed automotive repair service, a licensed demolisher, as defined in Section 56‑5‑5810, a licensed secondary metals recycler, or a licensed motor vehicle dealer and the purchase is made by a permitted secondary metals recycler who maintains a fixed site within the State, and the following requirements are followed:

(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.

Nothing in this item prevents an out‑of‑state secondary metals recycler who maintains a fixed site and who complies with all other provisions of this chapter from obtaining, purchasing, or otherwise acquiring a used, detached catalytic converter or any nonferrous part of a used catalytic converter.

(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 unlawfully obtained or possessed used, detached catalytic converter or part of a used catalytic converter is a separate violation and subjects the secondary metals recycler 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 secondary metals recycler to pay restitution for the value of the repair and replacement of the catalytic converter or the secondary metals recycler 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.

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