**South Carolina General Assembly**

118th Session, 2009-2010

**A26, R59, S184**

**STATUS INFORMATION**

General Bill

Sponsors: Senators McConnell and Ford

Document Path: l:\s-jud\bills\mcconnell\jud0007.hla.docx

Companion/Similar bill(s): 3153

Introduced in the Senate on January 13, 2009

Introduced in the House on February 25, 2009

Last Amended on May 13, 2009

Passed by the General Assembly on May 20, 2009

Governor's Action: June 2, 2009, Signed

Summary: Junk dealer

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/17/2008 Senate Prefiled

12/17/2008 Senate Referred to Committee on **Judiciary**

1/13/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑155

1/13/2009 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑155

1/23/2009 Senate Referred to Subcommittee: Knotts (ch), Massey, Coleman

2/4/2009 Senate Committee report: Favorable with amendment **Judiciary** [SJ](file:///h:\SJ%20Archive\2009\02-04-09.docx)‑4

2/5/2009 Scrivener's error corrected

2/10/2009 Senate Committee Amendment Adopted [SJ](file:///h:\SJ%20Archive\2009\02-10-09.docx)‑24

2/11/2009 Scrivener's error corrected

2/11/2009 Senate Amended [SJ](file:///h:\SJ%20Archive\2009\02-11-09.docx)‑37

2/12/2009 Scrivener's error corrected

2/12/2009 Scrivener's error corrected

2/17/2009 Senate Amended [SJ](file:///h:\SJ%20Archive\2009\02-17-09.docx)‑10

2/18/2009 Senate Amended [SJ](file:///h:\SJ%20Archive\2009\02-18-09.docx)‑12

2/18/2009 Senate Read second time [SJ](file:///h:\SJ%20Archive\2009\02-18-09.docx)‑12

2/24/2009 Senate Read third time and sent to House [SJ](file:///h:\SJ%20Archive\2009\02-24-09.docx)‑12

2/25/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\02-25-09.docx)‑8

2/25/2009 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\02-25-09.docx)‑9

4/22/2009 House Committee report: Favorable with amendment **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\04-22-09.docx)‑1

4/28/2009 House Amended [HJ](file:///h:\HJ%20Archive\2009\04-28-09.docx)‑14

4/28/2009 House Debate adjourned until Wednesday, April 29, 2009 [HJ](file:///h:\HJ%20Archive\2009\04-28-09.docx)‑21

4/28/2009 Scrivener's error corrected

4/29/2009 House Requests for debate‑Rep(s). Kennedy, Rutherford, Hart, Harvin, Cobb‑Hunter, Hosey, Crawford, Lowe, Daning, Long, JH Neal, Hardwick, Edge, Jefferson, R Brown, Brantley, and King [HJ](file:///h:\HJ%20Archive\2009\04-29-09.docx)‑26

4/30/2009 House Debate adjourned until Tuesday, May 12, 2009 [HJ](file:///h:\HJ%20Archive\2009\04-30-09.docx)‑87

5/12/2009 House Amended [HJ](file:///h:\HJ%20Archive\2009\05-12-09.docx)‑47

5/12/2009 House Read second time [HJ](file:///h:\HJ%20Archive\2009\05-12-09.docx)‑49

5/12/2009 House Roll call Yeas‑111 Nays‑0 [HJ](file:///h:\HJ%20Archive\2009\05-12-09.docx)‑49

5/13/2009 House Read third time and returned to Senate with amendments [HJ](file:///h:\HJ%20Archive\2009\05-13-09.docx)‑50

5/13/2009 Senate House amendment amended [SJ](file:///h:\SJ%20Archive\2009\05-13-09.docx)‑74

5/13/2009 Senate Returned to House with amendments [SJ](file:///h:\SJ%20Archive\2009\05-13-09.docx)‑74

5/14/2009 Scrivener's error corrected

5/20/2009 House Concurred in Senate amendment and enrolled [HJ](file:///h:\HJ%20Archive\2009\05-20-09.docx)‑38

5/20/2009 House Roll call Yeas‑103 Nays‑0 [HJ](file:///h:\HJ%20Archive\2009\05-20-09.docx)‑40

5/27/2009 Ratified R 59

6/2/2009 Signed By Governor

6/11/2009 Effective date 06/02/09

6/12/2009 Act No. 26

**VERSIONS OF THIS BILL**

[12/17/2008](file:///p:\pprever\2009-10\184_20081217.docx)

[2/4/2009](file:///p:\pprever\2009-10\184_20090204.docx)

[2/5/2009](file:///p:\pprever\2009-10\184_20090205.docx)

[2/10/2009](file:///p:\pprever\2009-10\184_20090210.docx)

[2/10/2009-A](file:///p:\pprever\2009-10\184_20090210A.docx)

[2/11/2009](file:///p:\pprever\2009-10\184_20090211.docx)

[2/11/2009-A](file:///p:\pprever\2009-10\184_20090211A.docx)

[2/12/2009](file:///p:\pprever\2009-10\184_20090212.docx)

[2/12/2009-A](file:///p:\pprever\2009-10\184_20090212A.docx)

[2/17/2009](file:///p:\pprever\2009-10\184_20090217.docx)

[2/18/2009](file:///p:\pprever\2009-10\184_20090218.docx)

[4/22/2009](file:///p:\pprever\2009-10\184_20090422.docx)

[4/28/2009](file:///p:\pprever\2009-10\184_20090428.docx)

[4/28/2009-A](file:///p:\pprever\2009-10\184_20090428A.docx)

[5/12/2009](file:///p:\pprever\2009-10\184_20090512.docx)

[5/13/2009](file:///p:\pprever\2009-10\184_20090513.docx)

[5/14/2009](file:///p:\pprever\2009-10\184_20090514.docx)

(A26, R59, S184)

**AN ACT TO AMEND SECTION 16‑11‑523, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CAUSING INJURY TO REAL PROPERTY FOR THE PURPOSE OF OBTAINING NONFERROUS METALS, SO AS TO REVISE THE DEFINITION OF “NONFERROUS METALS” TO INCLUDE THE TERM “COPPER CLAD STEEL WIRE” AND “CATALYTIC CONVERTERS”, TO PROVIDE THAT THIS PROVISION ALSO APPLIES TO CAUSING INJURY TO PERSONAL PROPERTY FOR THE PURPOSE OF OBTAINING NONFERROUS METALS, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 16‑17‑680, AS AMENDED, RELATING TO THE UNLAWFUL PURCHASE OF NONFERROUS METALS, SO AS TO REVISE THE DEFINITION OF THE TERM “NONFERROUS METALS” TO INCLUDE “COPPER CLAD STEEL WIRE” AND “CATALYTIC CONVERTERS”; BY ADDING SECTION 16‑17‑685 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO TRANSPORT OR HAVE IN HIS POSSESSION CERTAIN QUANTITIES OF NONFERROUS METALS UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS PROVISION; TO AMEND SECTION 40‑27‑10, RELATING TO A PERSON WHO BUYS JUNK, SO AS TO PROVIDE THAT A PERSON WHO BUYS JUNK THAT CONSISTS OF NONFERROUS METALS MUST COMPLY WITH THE PROVISIONS CONTAINED IN SECTION 16‑17‑680; TO REPEAL SECTION 40‑27‑30 RELATING TO THE PURCHASE OF JUNK OUTSIDE OF THE COUNTY IN WHICH THE PLACE OF BUSINESS OF ITS BUYER IS LOCATED; TO AMEND SECTION 40‑27‑40, RELATING TO PENALTIES ASSOCIATED WITH THE UNLAWFUL PURCHASE OF JUNK, SO AS TO INCREASE THE PENALTY AND PROVIDE THAT EACH VIOLATION OF THE PROVISIONS RELATING TO THE UNLAWFUL PURCHASE OF JUNK CONSTITUTES A SEPARATE OFFENSE; TO AMEND SECTION 56‑5‑5670, RELATING TO THE DUTIES OF A DEMOLISHER WHO ACQUIRES A VEHICLE FOR THE PURPOSE OF WRECKING, DISMANTLING, OR DEMOLITION, SO AS TO PROVIDE THAT A DEMOLISHER WHO ACQUIRES NONFERROUS METALS IS SUBJECT TO THE PROVISIONS CONTAINED IN SECTION 16‑17‑680, TO PROVIDE THAT A DEMOLISHER MUST KEEP RECORDS OF ALL VEHICLE PARTS THAT WEIGH MORE THAN TWENTY‑FIVE POUNDS, TO REVISE THE TYPE OF INFORMATION THAT MUST BE RECORDED REGARDING THE SELLER OF VEHICLES AND VEHICLES PURCHASED BY A DEMOLISHER, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS SECTION; TO AMEND SECTION 56‑5‑5850, RELATING TO THE PLACEMENT OF A COLORED TAG ON AN UNATTENDED VEHICLE AS NOTICE THAT THE VEHICLE IS SUBJECT TO FORFEITURE TO THE STATE, SO AS TO PROVIDE THAT A VEHICLE THAT HAS AT LEAST TWO COLORED TAGS PREVIOUSLY PLACED ON IT IS AN ABANDONED VEHICLE AND MAY BE REMOVED BY A LAW ENFORCEMENT AGENCY AND SOLD; TO AMEND SECTION 56‑5‑5945, RELATING TO THE DUTIES OF A DEMOLISHER WHO ACQUIRES A VEHICLE FOR THE PURPOSE OF WRECKING, DISMANTLING, OR DEMOLITION, SO AS TO PROVIDE THAT A DEMOLISHER WHO ACQUIRES NONFERROUS METAL IS SUBJECT TO THE PROVISIONS CONTAINED IN SECTION 16‑17‑680, TO PROVIDE THAT A DEMOLISHER MUST KEEP RECORDS OF ALL VEHICLE PARTS THAT WEIGH MORE THAN TWENTY‑FIVE POUNDS, TO REVISE THE TYPE OF INFORMATION THAT MUST BE RECORDED REGARDING THE SELLER OF VEHICLES AND VEHICLE PARTS PURCHASED BY A DEMOLISHER, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS SECTION; TO AMEND SECTION 57‑27‑20, RELATING TO DEFINITION OF TERMS CONTAINED IN THE JUNKYARD CONTROL ACT, SO AS TO REVISE THE DEFINITION OF THE TERM “JUNK”; AND BY ADDING SECTION 57‑27‑57 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A JUNKYARD OWNER TO ALLOW MOTOR VEHICLES TO BE PARKED ON A HIGHWAY ADJACENT TO ITS PROPERTY.**

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

**Obtaining nonferrous metals unlawfully**

SECTION 1. Section 16‑11‑523 of the 1976 Code, as added by Act 260 of 2008, is amended to read:

“Section 16‑11‑523. (A) For purposes of this section, ‘nonferrous metals’ means metals not containing significant quantities of iron or steel, including copper wire, 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.

(B) It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure any personal or real property, including any fixtures or improvements, for the purpose of obtaining nonferrous metals in any amount.

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

(1) misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is one thousand dollars or less;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is more than one thousand dollars but less than five thousand dollars; or

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is five thousand dollars or more.

(D)(1) A person who violates the provisions of this section and the violation results in great bodily injury to another person is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years. For purposes of this subsection, ‘great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2) A person who violates the provisions of this section and the violation results in the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(E)(1) A public or private owner of personal or real property is not civilly liable to a person who is injured during the theft or attempted theft, by the person or a third party, of nonferrous metals in any amount.

(2) A public or private owner of personal or real property is not civilly liable for a person’s injuries caused by a dangerous condition created as a result of the theft or attempted theft of nonferrous metals in any amount, of the owner when the owner of personal or real property did not know and could not have reasonably known of the dangerous condition.

(3) This subsection does not create or impose a duty of care upon a owner of personal or real property that would not otherwise exist under common law.”

**Definition**

SECTION 2. Section 16‑17‑680(F)(1) of the 1976 Code, as last amended by Act 260 of 2008, is further amended to read:

“(1) ‘Nonferrous metals’ means metals not containing significant quantities of iron or steel, including copper wire, cooper 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.”

**Unlawful transportation of nonferrous metals**

SECTION 3. Article 7, Chapter 17, Title 16 of the 1976 Code is amended by adding:

“Section 16‑17‑685. (A) For purposes of this section:

(1) ‘Nonferrous metals’ means metals not containing significant quantities of iron or steel, including copper wire, cooper 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.

(2) ‘Transportation permit number’ means a number provided by a sheriff’s office by telephone, fax, or email to a person who requests a permit number for the transportation of nonferrous metals. In order to receive a transportation permit number, a person must provide the person’s name, address, and telephone number to the sheriff’s office of the county in which the person resides. The sheriff’s office must record the person’s information along with the transportation permit number. The transportation permit number is valid for no more than forty‑eight hours from the time the number is issued, and the sheriff’s office must inform the person of this restriction at the time the number is issued.

(3) ‘Vehicle used in the ordinary course of business for the purpose of transporting nonferrous metals’ includes, but is not limited to, vehicles used by gas, electric, communications, water, plumbing, electrical, and climate conditioning service providers, and their employees, agents, and contractors, in the course of providing these services.

(B) It is unlawful for a person to transport or have in the person’s possession on the highways of this State nonferrous metals of an aggregate weight of more than twenty‑five pounds in a vehicle other than a vehicle used in the ordinary course of business for the purpose of transporting nonferrous metals, unless the person:

(1) has in the person’s possession a bill of sale signed by:

(a) a holder of a retail license for a business engaged in the sale of nonferrous metals or a mixture of nonferrous metals;

(b) an authorized wholesaler engaged in the sale of nonferrous metals or a mixture of nonferrous metals; or

(c) a registered dealer of scrap metals; or

(2) can present, either orally or in writing, a valid transportation permit number provided by the sheriff of the county in which the person resides.

(C) A bill of sale must clearly identify the material to which it applies, the name and address of the seller, the license plate information of the vehicle in which the material is delivered to the purchaser, identified by license plate number, year, and state of issue, the name and address of the purchaser, the date of sale, and the type and amount of nonferrous metals purchased.

(D) 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 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 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 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.”

**Purchase of junk consisting of nonferrous metals**

SECTION 4. Section 40‑27‑10 of the 1976 Code is amended to read:

“Section 40‑27‑10. Any person buying junk shall keep a book that he shall keep open to the inspection of all persons, wherein he shall set down the name and address, city, and street of every person selling junk and an itemized statement of all junk bought from such person and the date of purchase. Any person buying junk that consists of nonferrous metals, as defined by Section 16‑17‑680 is subject to the provisions of Section 16‑17‑680.”

**Repeal**

SECTION 5. Section 40‑27‑30 of the 1976 Code is repealed.

**Penalties**

SECTION 6. Section 40‑27‑40 of the 1976 Code is amended to read:

“Section 40‑27‑40. A person violating a provision of this article shall be fined a sum not exceeding five hundred dollars or imprisoned not exceeding thirty days. Each violation constitutes a separate offense.”

**Duties of a demolisher**

SECTION 7. Section 56‑5‑5670 of the 1976 Code is amended to read:

“Section 56‑5‑5670. (A) A demolisher who purchases or otherwise acquires a vehicle for purposes of wrecking, dismantling, or demolishing is not required to obtain a certificate of title for the vehicle in his own name. After the vehicle has been demolished, processed, or changed so that it physically is no longer a vehicle, the demolisher must surrender for cancellation the certificate of title, auction sales receipt, or disposal authority certificate. The Department of Motor Vehicles must issue forms, rules, and regulations governing the surrender of auction sales receipts, disposal authority certificates, and certificates of title as appropriate.

(B) A demolisher who purchases or otherwise acquires nonferrous metals as defined by Section 16‑17‑680 must comply with and is subject to the provisions of Section 16‑17‑680.

(C) A demolisher must keep an accurate and complete record of all abandoned vehicles and vehicle parts with a total weight of twenty‑five pounds or more purchased or received by him in the course of his business. These records must contain the name and address of the person from whom the vehicle or vehicle parts were purchased or received, a photo or copy of the person’s driver’s license or other government issued picture identification card that legibly shows the person’s name and address, the date when the purchases or receipts occurred, and the year, make, model, and identification number of the vehicle or vehicle parts, if ascertainable, along with any other identifying features. The records are open for inspection by any police officer at any time during normal business hours. Any record required by this section must be kept by the demolisher for at least one year after the transaction to which it applies.

(D) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars for each offense not to exceed five thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than sixty days, or both. Each violation constitutes a separate offense.”

**Unattended vehicles**

SECTION 8. Section 56‑5‑5850 of the 1976 Code is amended to read:

“Section 56‑5‑5850. (A) When any vehicle is left unattended on a highway or on other public or private property without the consent of the owner or person in control of the property, an officer may place a colored tag on the vehicle which is notice to the owner, the person in possession of the vehicle, or any lienholder that it may be considered to be derelict or abandoned and is subject to forfeiture to the State.

(B) The colored tag serves as the only legal notice that the vehicle will be moved to a designated place to be sold if the vehicle is not removed by the owner or person in control of the vehicle. The vehicle must be removed within the following times from the date the tag is placed on the vehicle:

(1) forty‑eight hours if it is located on a highway, or

(2) seven days if it is located on other public or private property.

(C) A vehicle that has had at least two colored tags previously placed on it is an abandoned vehicle for purposes of this article and may be removed immediately by a law enforcement agency to a designated place to be sold.

(D) Abandoned or derelict vehicles must be disposed of pursuant to Sections 29‑15‑10 and 56‑5‑5635.”

**Duties of a demolisher**

SECTION 9. Section 56‑5‑5945 of the 1976 Code is amended to read:

“Section 56‑5‑5945. (A) A demolisher who purchases or otherwise acquires a vehicle for purposes of wrecking, dismantling, or demolition shall not be required to obtain a certificate of title for the vehicle in his own name. After the vehicle has been demolished, processed, or changed so that it physically is no longer a vehicle, the demolisher shall surrender for cancellation the certificate of title or sales receipt issued under Section 56‑5‑5850.

(B) A demolisher who purchases or otherwise acquires nonferrous metals as defined by Section 16‑17‑680 must comply with and is subject to the provisions of Section 16‑17‑680.

(C) A demolisher shall keep an accurate and complete record of all vehicles and vehicle parts with a total weight of twenty‑five pounds or more purchased or received by him in the course of his business. These records shall contain the name and address of the person from whom the vehicle or vehicle parts were purchased or received, a photo or copy of the person’s driver’s license or other government issued picture identification card that legibly shows the person’s name and address, the date when purchases or receipts occurred, and the year, make, model, and identification number of the vehicle or vehicle parts, if ascertainable, along with any other identifying features. The records shall be open for inspection by any law enforcement officer at any time during normal business hours. Any record required by this section shall be kept by the demolisher for at least one year after the transaction to which it applies.

(D) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars for each offense not to exceed five thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than sixty days, or both. Each violation constitutes a separate offense.”

**Definition**

SECTION 10. Section 57‑27‑20(a) of the 1976 Code is amended to read:

“(a) The term ‘junk’ means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, junked, dismantled, or wrecked automobiles, trucks and other motor vehicles, or parts of them, iron, steel, and other old or scrap ferrous or nonferrous material.”

**Parking of motor vehicles adjacent to junkyards**

SECTION 11. Chapter 27, Title 57 of the 1976 Code is amended by adding:

“Section 57‑27‑57. It is unlawful for a junkyard owner to allow motor vehicles to be parked on a highway adjacent to its property.”

**Savings clause**

SECTION 12. 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.

**Severability clause**

SECTION 13. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 14. This act takes effect upon approval by the Governor.

Ratified the 27th day of May, 2009.

Approved the 2nd day of June, 2009.

\_\_\_\_\_\_\_\_\_\_