~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

March 18, 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 2, 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. 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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