

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1006*
Judiciary I Committee Substitute Adopted 5/13/93

Short Title: Regulated Metals Purchase.

(Public)

Sponsors:

Referred to:

April 29, 1993

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING FOR THE REGULATION OF PURCHASES OF
3 REGULATED METALS PROPERTY BY SECONDARY METALS RECYCLERS
4 IN NORTH CAROLINA.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 66-10 reads as rewritten:

7 "**§ 66-10. Failure of junk-dealers of scrap, salvage, or surplus to keep record of**
8 **purchases of certain items misdemeanor.**

9 (a) Every person, firm, or corporation buying ~~brass or copper, or any other metal, or~~
10 ~~any rubber, or leather and rubber belts~~ rubber or leather, rubber belts, and belting, as junk,
11 scrap, salvage, or surplus shall keep a register ~~and shall keep therein containing~~ a true and
12 accurate record of each purchase, ~~showing~~ including the description of the article
13 purchased, the name from whom purchased, the amount paid for the ~~same,~~ article
14 purchased, the date thereof, of the purchase, and also any and all marks or brands upon
15 ~~said metal, rubber, or leather and rubber belts~~ the rubber or leather, rubber belts, and
16 belting. ~~The said~~ This register and the ~~metal and rubber, and leather and rubber belts~~ rubber,
17 leather, rubber belts, and belting purchased shall be at all times open to the inspection of
18 the public. A failure to comply with these requirements or the making of a false entry
19 concerning ~~such metals, rubber, the rubber~~ the rubber or leather, ~~or~~ rubber belts, or belting shall
20 constitute a misdemeanor.

21 (b) Every person, ~~firm~~ firm, or corporation engaged in the business of buying or
22 dealing in ~~what is commonly known as 'junk,'~~ scrap, salvage, or surplus, including ~~scrap~~
23 ~~metal of every kind, nature or description,~~ glass, waste paper, burlap, cloth, cordage,

1 rubber, leather, or belting of every kind, ~~or brass,~~ in addition to the above requirements,
2 requirements under subsection (a) of this section, shall make and keep a record of the
3 name and address of the person from whom ~~such junk~~ this scrap, salvage, or surplus is
4 purchased and the license number, if any, and if there is no license, a description of the
5 vehicle in which ~~such junk~~ this scrap, salvage, or surplus is delivered. Any person, ~~firm~~
6 firm, or corporation ~~who or~~ which fails to comply with the requirements of this paragraph
7 subsection shall be guilty of a misdemeanor and upon conviction shall be fined not in
8 excess of fifty dollars (\$50.00) in the discretion of the court."

9 Sec. 2. G.S. 66-11 reads as rewritten:

10 "**§ 66-11. Dealing in ~~certain metals regulated;~~ regulated metals property; purchasing**
11 **from minors; violations of section misdemeanor.**

12 Every person, firm, or corporation ~~buying railroad brasses or any composition metal~~
13 ~~especially used in the operation of trains, or brasses, composition metals, or copper or~~
14 ~~aluminum of the kind or quality used by manufacturing or power plants or by the~~
15 ~~communication or electric utility industry, or any copper, brass or bronze of whatever~~
16 ~~kind or description, shall keep a register and shall insert therein a true and accurate~~
17 ~~record of each purchase, showing the name, address and driver's license number, the~~
18 ~~make and type of vehicle hauling said scrap, together with the license plate number~~
19 ~~thereon, of the person from whom purchased, the amount paid for the same, the date~~
20 ~~thereof, and also any and all marks or brands upon such metal. Such records shall be~~
21 ~~kept at the place of business of the person, firm or corporation and shall be open to~~
22 ~~inspection by any law officer. The register shall be at all times open to the inspection of~~
23 ~~the public. Any person or dealer buying or selling metals without complying with this~~
24 ~~section shall be guilty of a misdemeanor; and any person making a false entry in such~~
25 ~~register shall be guilty of a misdemeanor. Every person, firm, or corporation who shall~~
26 ~~buy or receive any such metals from persons under 18 years old, or who shall buy or~~
27 ~~receive any such metals after the same have been broken up and the marks or brands~~
28 ~~obliterated, shall be guilty of a misdemeanor; and every person buying, receiving or~~
29 ~~selling, or offering for sale metals broken into small pieces, or so broken as to obliterate~~
30 ~~the marks or brands, shall be prima facie presumed to have received such metals~~
31 ~~knowing the same to have been stolen.~~

32 (a) Definitions. – As used in this section:

33 (1) 'Law enforcement officer' means any duly constituted law enforcement
34 officer of the State or of any municipality or county.

35 (2) 'Regulated metals property' means all ferrous and nonferrous materials.

36 (3) 'Secondary metals recycler' means any person, firm, or corporation in
37 the State:

38 a. That, from a fixed location or otherwise, is predominately
39 engaged in the business of gathering or obtaining ferrous or
40 nonferrous metals that have served their original economic
41 purpose or is in the business of performing the manufacturing
42 process by which ferrous metals or nonferrous metals are
43 converted into raw material products consisting of prepared
44 grades and having an existing or potential economic value; or

- 1 b. That has facilities for performing the manufacturing process by
2 which ferrous metals or nonferrous metals are converted into
3 raw material products consisting of prepared grades and having
4 an existing or potential economic value, by methods including,
5 but not limited to, the processing, sorting, cutting, classifying,
6 cleaning, baling, wrapping, shredding, shearing, or changing the
7 physical form or chemical content of the metals, but not
8 including the exclusive use of hand tools.
- 9 (4) 'Fixed location' means any site occupied by a secondary metals
10 recycler as the owner of the site or as a lessee of the site under a lease
11 or other rental agreement providing for occupation of the site by the
12 secondary metals recycler for a total duration of not less than 364 days.
- 13 (b) Records Required. –
- 14 (1) A secondary metals recycler shall maintain a record of all purchase
15 transactions in which the secondary metals recycler purchases
16 regulated metals property.
- 17 (2) The following information shall be maintained for transactions in
18 which a secondary metals recycler purchases regulated metals
19 property:
- 20 a. The name and address of the secondary metals recycler.
21 b. The name, initials, or other identification of the individual
22 entering the information.
- 23 c. The date of the transaction.
24 d. The weight of the regulated metals property purchased.
25 e. The description made in accordance with the custom of the
26 trade of the type of regulated metals property purchased.
27 f. The amount of consideration given for the regulated metals
28 property.
- 29 g. The name and address of the vendor of the regulated metals
30 property.
- 31 h. The drivers license number or identification card number issued
32 by the Division of Motor Vehicles of the person delivering the
33 regulated metals property to the secondary metals recycler, or,
34 if the person delivering the regulated metals property does not
35 have a drivers license or an identification card issued by the
36 Division of Motor Vehicles, a signed written statement that the
37 delivery person does not have a drivers license or an
38 identification card issued by the Division of Motor Vehicles.
- 39 (3) A secondary metals recycler shall keep and maintain the information
40 required under this subsection for not less than two years from the date
41 of the purchase of the regulated metals property.
- 42 (c) Inspection of Regulated Metals Property and Records. – During the usual and
43 customary business hours of a secondary metals recycler, a law enforcement officer
44 shall have the right to inspect either of the following:

1 (1) Any and all purchased regulated metals property in the possession of
2 the secondary metals recycler.

3 (2) Any and all records required to be maintained under subsection (b) of
4 this section.

5 (d) Cash Transactions. – No secondary metals recycler shall purchase regulated
6 metals property for cash consideration from other than a fixed location.

7 (e) Right to Restitution. – The court may order a defendant to make restitution to
8 the secondary metals recycler for any damage or loss caused by the defendant arising
9 out of an offense committed by the defendant.

10 (f) Violations. – Any person violating any of the provisions of this section shall
11 be guilty of a misdemeanor and upon conviction shall be fined not more than five
12 hundred dollars (\$500.00), imprisoned for not longer than two years, or both.

13 (g) Exemptions. – This section shall not apply to purchases of regulated metals
14 property from a manufacturing, industrial, or other commercial vendor that generates or
15 sells regulated metals property in the ordinary course of its business.

16 (h) Preemption. – A county or municipality shall not enact any local law,
17 ordinance, or regulation regulating secondary metals recyclers or regulated metals
18 property that conflicts with this section, and this law preempts all existing laws,
19 ordinances, or regulations."

20 Sec. 3. This act becomes effective December 1, 1993.