

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE DRH50121-LH-91A (02/13)

Short Title: Amend Metals Products Regulations.

(Public)

Sponsors: Representative Braxton.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING THE REGULATION OF CERTAIN METALS TO PROVIDE MORE OVERSIGHT OF THE SALES OF METALS PRODUCTS AND TO INCREASE THE CRIMINAL PENALTY FOR VIOLATING THOSE REGULATIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 66-11 reads as rewritten:

"§ 66-11. **Dealing in regulated metals property; violations of section ~~Class 1~~Class A1 misdemeanor.**

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

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

(2) "Regulated metals property" means all ferrous and nonferrous metals.

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

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

b. That has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, by methods including, but not limited to, the processing, sorting, cutting, classifying,

1 cleaning, baling, wrapping, shredding, shearing, or changing the  
2 physical form or chemical content of the metals, but not  
3 including the exclusive use of hand tools.

- 4 (4) "Fixed location" means any site occupied by a secondary metals  
5 recycler as the owner of the site or as a lessee of the site under a lease  
6 or other rental agreement providing for occupation of the site by the  
7 secondary metals recycler for a total duration of not less than 364 days.

8 (b) Records Required. –

- 9 (1) A secondary metals recycler shall maintain a record of all purchase  
10 transactions in which the secondary metals recycler purchases  
11 regulated metals property.

- 12 (2) The following information shall be maintained for transactions in  
13 which a secondary metals recycler purchases regulated metals  
14 property:

- 15 a. The name and address of the secondary metals recycler.  
16 b. The name, initials, or other identification of the individual  
17 entering the information.  
18 c. The date of the transaction.  
19 d. The weight of the regulated metals property purchased.  
20 e. The description made in accordance with the custom of the  
21 trade of the type of regulated metals property purchased.  
22 f. The amount of consideration given for the regulated metals  
23 property.  
24 g. The name and address of the vendor of the regulated metals  
25 property.  
26 h. The drivers license number or identification card number issued  
27 by the Division of Motor Vehicles of the person delivering the  
28 regulated metals property to the secondary metals recycler, or,  
29 if the person delivering the regulated metals property does not  
30 have a drivers license or an identification card issued by the  
31 Division of Motor Vehicles, a signed written statement that the  
32 delivery person does not have a drivers license or an  
33 identification card issued by the Division of Motor Vehicles.  
34 Vehicles and that provides the delivery vehicle license tag  
35 number.

- 36 (3) A-Except as provided in subdivision (4) of this subsection, a secondary  
37 metals recycler shall keep and maintain the information required under  
38 this subsection for not less than two years from the date of the  
39 purchase of the regulated metals property.

- 40 (4) A secondary metals recycler shall make the receipts for the purchase of  
41 the regulated metals property available for pickup each regular  
42 workday by the sheriff of the county or the chief of police of the  
43 municipality in which the secondary metals recycler is located.

1 (c) Inspection of Regulated Metals Property and Records. – During the usual and  
2 customary business hours of a secondary metals recycler, a law enforcement officer  
3 shall have the right to inspect either of the following:

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

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

8 (d) ~~Cash Transactions.~~ Purchase Limitations. – No secondary metals recycler  
9 shall ~~purchase~~ do any of the following:

10 (1) Purchase regulated metals property for cash consideration from other  
11 than a fixed location.

12 (2) Purchase or receive regulated metals property from minors.

13 (d1) Retain Metals for Seven Days Before Selling or Altering. – A secondary  
14 metals recycler shall hold and retain any regulated metals product for seven days from  
15 the date of purchase before selling, dismantling, defacing, or in any manner altering or  
16 disposing of the regulated metals property.

17 (d2) Duty to Report Suspected Stolen Property. – A secondary metals recycler  
18 shall report to the appropriate law enforcement authority any offer of sale made to him  
19 or her to sell regulated metals products that the secondary metals recycler suspects are  
20 stolen.

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

24 (f) Violations. – Any person violating any of the provisions of this section shall  
25 be guilty of a ~~Class 1 misdemeanor.~~ Class A1 misdemeanor.

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

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

33 **SECTION 2.** This act becomes effective December 1, 2007, and applies to  
34 offenses committed on or after that date.