

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 414

Short Title: Amend Metals Products Regulations. (Public)

Sponsors: Representatives Braxton; and R. Warren.

Referred to: Commerce, Small Business and Entrepreneurship, if favorable, Judiciary III.

March 1, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO AMEND THE LAW REGARDING THE REGULATION OF CERTAIN
3 METALS TO PROVIDE MORE OVERSIGHT OF THE SALES OF METALS
4 PRODUCTS AND TO INCREASE THE CRIMINAL PENALTY FOR
5 VIOLATING THOSE REGULATIONS.

6 The General Assembly of North Carolina enacts:

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

8 "**§ 66-11. Dealing in regulated metals property; violations of section ~~Class 1~~Class**
9 **A1 misdemeanor.**

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

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

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

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

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

23 b. That has facilities for performing the manufacturing process by
24 which ferrous metals or nonferrous metals are converted into
25 raw material products consisting of prepared grades and having
26 an existing or potential economic value, by methods including,
27 but not limited to, the processing, sorting, cutting, classifying,
28 cleaning, baling, wrapping, shredding, shearing, or changing the

- 1 physical form or chemical content of the metals, but not
2 including the exclusive use of hand tools.
- 3 (4) "Fixed location" means any site occupied by a secondary metals
4 recycler as the owner of the site or as a lessee of the site under a lease
5 or other rental agreement providing for occupation of the site by the
6 secondary metals recycler for a total duration of not less than 364 days.
- 7 (b) Records Required. –
- 8 (1) A secondary metals recycler shall maintain a record of all purchase
9 transactions in which the secondary metals recycler purchases
10 regulated metals property.
- 11 (2) The following information shall be maintained for transactions in
12 which a secondary metals recycler purchases regulated metals
13 property:
- 14 a. The name and address of the secondary metals recycler.
15 b. The name, initials, or other identification of the individual
16 entering the information.
17 c. The date of the transaction.
18 d. The weight of the regulated metals property purchased.
19 e. The description made in accordance with the custom of the
20 trade of the type of regulated metals property purchased.
21 f. The amount of consideration given for the regulated metals
22 property.
23 g. The name and address of the vendor of the regulated metals
24 property.
25 h. The drivers license number or identification card number issued
26 by the Division of Motor Vehicles of the person delivering the
27 regulated metals property to the secondary metals recycler, or,
28 if the person delivering the regulated metals property does not
29 have a drivers license or an identification card issued by the
30 Division of Motor Vehicles, a signed written statement that the
31 delivery person does not have a drivers license or an
32 identification card issued by the Division of Motor Vehicles.
33 Vehicles and that provides the delivery vehicle license tag
34 number.
- 35 (3) ~~A-Except as provided in subdivision (4) of this subsection,~~ a secondary
36 metals recycler shall keep and maintain the information required under
37 this subsection for not less than two years from the date of the
38 purchase of the regulated metals property.
- 39 (4) A secondary metals recycler shall make the receipts for the purchase of
40 the regulated metals property available for pickup each regular
41 workday by the sheriff of the county or the chief of police of the
42 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.