

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

1

SENATE BILL 1006\*

Short Title: Regulated Metals Purchase.

(Public)

Sponsors: Senator Kaplan.

Referred to: Constitution and Election Laws.

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 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,  
24 rubber, leather, or belting of every kind, ~~or brass,~~ in addition to the above requirements,

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

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

9 "**§ 66-11. Dealing in ~~certain metals regulated~~; regulated metals property; ~~purchasing~~  
10 ~~from minors~~; violations of section misdemeanor.**

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

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

32 (1) 'Law enforcement officer' means any duly constituted law enforcement  
33 officer of the State of North Carolina or of any city, town, or village or  
34 a law enforcement officer's designee.

35 (2) 'Regulated metals property' means:

36 a. All ferrous and nonferrous materials; or

37 b. Materials made from copper or brass, the total of which  
38 materials purchased in a purchase transaction weighs in excess  
39 of 150 pounds.

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

42 a. Which, from a fixed location or otherwise, is predominately  
43 engaged in the business of gathering or obtaining ferrous or  
44 nonferrous metals that have served their original economic

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

1           (3) A secondary metals recycler shall keep and maintain the information  
2           required under this subsection for not less than two years from the date  
3           of the purchase of the regulated metals property.

4           (c) Inspection of Regulated Metals Property and Records. – During the usual and  
5 customary business hours of a secondary metals recycler, a law enforcement officer or a  
6 designated agent of a public utility shall, after giving proper identification, have the  
7 right to inspect:

8           (1) Any and all purchased regulated metals property in the possession of  
9           the secondary metals recycler; and

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

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

14          (e) Right to Reimbursement. – When a lawful owner of regulated metals property  
15 recovers from a secondary metals recycler regulated metals property that has been  
16 stolen from the lawful owner, and the person who sold or otherwise conveyed the  
17 regulated metals property to the secondary metals recycler is convicted of theft, a  
18 violation of this section, or theft by receiving stolen property, the court may order the  
19 defendant to make full restitution to the secondary metals recycler of all costs and  
20 expenses incurred by the secondary metals recycler as a result of its purchase or  
21 acceptance of the regulated metals property, including, but not limited to, attorneys' fees  
22 and court costs, unless the secondary metals recycler was in violation of this section or  
23 unless the purchase or acceptance of the regulated metals property by the secondary  
24 metals recycler was in violation of any laws of this State.

25          (f) Violations. – Any person violating any of the provisions of this section shall  
26 be guilty of a misdemeanor and upon conviction shall be fined not more than five  
27 hundred dollars (\$500.00) or imprisoned not longer than two years, or both. Any  
28 subsequent violation of this statute within two years constitutes a Class J felony.

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

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

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