

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 367*
Committee Substitute Favorable 4/11/07

Short Title: Increase Criminal Penalty/Theft of Metals.

(Public)

Sponsors:

Referred to:

February 27, 2007

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LAW REGULATING THE SALE OF CERTAIN METALS BY SECONDARY METALS RECYCLERS, TO ADD WIRELESS AND CABLE TELECOMMUNICATIONS EQUIPMENT TO THE STATUTE PROVIDING PENALTIES FOR THE INJURY OR DESTRUCTION OF WIRES, PHONE, TELEGRAPH, AND ELECTRICAL FIXTURES, AND TO INCREASE THE CRIMINAL PENALTIES FOR VIOLATIONS OF THOSE REGULATIONS OF THE INJURY OR DESTRUCTION OF WIRES, PHONE, TELEGRAPH, AND ELECTRICAL FIXTURES.

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 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

- 1 an existing or potential economic value, by methods including,
2 but not limited to, the processing, sorting, cutting, classifying,
3 cleaning, baling, wrapping, shredding, shearing, or changing the
4 physical form or chemical content of the metals, but not
5 including the exclusive use of hand tools.
- 6 (4) "Fixed location" means any site occupied by a secondary metals
7 recycler as the owner of the site or as a lessee of the site under a lease
8 or other rental agreement providing for occupation of the site by the
9 secondary metals recycler for a total duration of not less than 364 days.
- 10 (b) Records Required. –
- 11 (1) A secondary metals recycler shall maintain a record of all purchase
12 transactions in which the secondary metals recycler purchases
13 regulated metals property.
- 14 (2) The following information shall be maintained for transactions in
15 which a secondary metals recycler purchases regulated metals
16 property:
- 17 a. The name and address of the secondary metals recycler.
18 b. The name, initials, or other identification of the individual
19 entering the information.
20 c. The date of the transaction.
21 d. The weight of the regulated metals property purchased.
22 e. The description made in accordance with the custom of the
23 trade of the type of regulated metals property purchased.
24 f. The amount of consideration given for the regulated metals
25 property.
26 g. The name and address of the vendor of the regulated metals
27 property.
28 h. The drivers license number or identification card number issued
29 by the Division of Motor Vehicles of the person delivering the
30 regulated metals property to the secondary metals recycler, or,
31 if the person delivering the regulated metals property does not
32 have a drivers license or an identification card issued by the
33 Division of Motor Vehicles, a signed written statement that the
34 delivery person does not have a drivers license or an
35 identification card issued by the Division of Motor Vehicles.
- 36 (3) A secondary metals recycler shall keep and maintain the information
37 required under this subsection for not less than two years from the date
38 of the purchase of the regulated metals property.
- 39 (4) The following additional information shall be maintained for
40 transactions in which a secondary metals recycler purchases copper,
41 brass, or aluminum other than beverage or food cans:
- 42 a. The source and physical address where the metals were
43 obtained by the seller.

1 b. A photocopy of the identification of the person delivering the
2 metals property required in sub-subdivision h. of subdivision
3 (2) of this subsection. If the secondary metals recycler has a
4 copy of the identification of the individual on file, the
5 secondary metals recycler may verify the identification that is
6 on file without making a separate photocopy of each
7 transaction.

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

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

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

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

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

20 (f) Violations. – Any person violating any of the provisions of this section shall
21 be guilty of a Class 1 misdemeanor.

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

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

29 **SECTION 2.** G.S. 14-154 reads as rewritten:

30 "**§ 14-154. Injuring wires and other fixtures of telephone, telegraph, cable, and**
31 **electric-power companies.**

32 If any person shall willfully injure, destroy or pull down any telegraph, telephone,
33 cable telecommunications, or electric-power-transmission pedestal or pole, ~~wire,~~
34 ~~insulator or any other fixture or apparatus attached to a telegraph, telephone or~~
35 ~~electric power transmission line~~ or any telegraph, telephone, cable telecommunications,
36 or electric power line, wire or fiber insulator, power supply, transformer, transmission
37 or other apparatus, equipment or fixture used in the transmission of telegraph,
38 telephone, cable telecommunications, or electrical power service or any equipment
39 related to wireless communications regulated by the Federal Communications
40 Commission, he shall be guilty of a Class I Felony.~~Class 1 misdemeanor.~~"

41 **SECTION 3.** This act becomes effective December 1, 2007, and applies to
42 offenses committed on or after that date.