

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

S

D

SENATE DRS85133-LD-10A\* (01/26)

Short Title: Prevent the Theft of Scrap Metals.

(Public)

Sponsors: Senator Rucho.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO STRENGTHEN THE REQUIREMENTS REGARDING SECONDARY  
3 METALS RECYCLING OF REGULATED METALS PROPERTY IN ORDER TO  
4 PREVENT THE THEFT OF THIS PROPERTY.

5 The General Assembly of North Carolina enacts:

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

7 **"§ 66-11. Dealing in regulated metals property; penalties.**

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

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

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

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

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

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

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

33 (a1) Receipt Required. – A secondary metals recycler shall issue a receipt to the person  
34 delivering the regulated metals property for all purchase transactions in which the secondary  
35 metals recycler purchases regulated metals property. This receipt shall be signed by both the



1 person receiving the materials and the person delivering the materials. The person delivering  
2 the materials shall place next to that person's signature on the receipt a clear impression of that  
3 person's index finger that is in ink and free of any smearing.

4 (b) Records Required. –

5 (1) A secondary metals recycler shall maintain a record of all purchase  
6 transactions in which the secondary metals recycler purchases regulated  
7 metals property.

8 (2) The following information shall be maintained for transactions in which a  
9 secondary metals recycler purchases regulated metals property:

10 a. The name and address of the secondary metals recycler.

11 b. The name, initials, or other identification of the individual entering  
12 the information.

13 c. The date of the transaction.

14 d. The weight of the regulated metals property purchased.

15 e. The description made in accordance with the custom of the trade of  
16 the type of regulated metals property purchased and the physical  
17 address where the regulated metals were obtained by the seller, and a  
18 statement signed by the seller or the seller's agent certifying that the  
19 seller or the seller's agent has the lawful right to sell and dispose of  
20 the property.

21 f. The amount of consideration given for the regulated metals property.

22 g. The name and address of the vendor of the regulated metals property  
23 and the license plate number of the vehicle used to deliver the  
24 regulated metals.

25 h. A photocopy or electronic scan of the drivers license or state or  
26 federally issued photo identification card of the person delivering the  
27 regulated metals property to the secondary metals recycler. If the  
28 secondary metals recycler has a copy of the valid photo identification  
29 of the person delivering the regulated metals property on file, the  
30 secondary metals recycler must examine the photo identification, but  
31 may reference the photo identification that is on file without making  
32 a separate photocopy or electronic scan for each subsequent  
33 transaction. If the person delivering the regulated metals property  
34 does not have a drivers license or a state or federally issued photo  
35 identification card, the secondary metals recycler shall not complete  
36 the transaction.

37 i. A copy of the receipt required under subsection (a1) of this section  
38 when all the information required under subsection (a1) of this  
39 section is clear and legible, or in the event the copy of the receipt is  
40 not clear or not legible, the original receipt.

41 j. If required under subdivision (3) of subsection (d) of this section, the  
42 written documentation showing ownership of the regulated metals  
43 property.

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

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

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

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

3 A secondary metals recycler shall make receipts for the purchase of regulated metals property  
4 available for pickup each regular workday if requested by the sheriff or chief of police of the  
5 county or the chief of police of the municipality in which the secondary metals recycler is  
6 located. The sheriff or the chief of police may request these receipts to be electronically  
7 transferred directly to the law enforcement agency.

8 (d) Purchase Limitations. – No secondary metals recycler shall do any of the following:

9 (1) Purchase regulated metals property for ~~each consideration from other than a~~  
10 ~~fixed location~~ any consideration other than check or money order that is  
11 mailed to the address of the seller.

12 (2) Purchase or receive regulated metals property from minors from other than a  
13 fixed location, provided that this provision does not apply to the purchase of  
14 aluminum in the form of ~~beverage or~~ food cans.

15 (3) Purchase any of the following regulated metals property, unless written  
16 documentation is provided to the secondary metals recycler that shows to the  
17 satisfaction of that recycler that the seller is the owner of the regulated  
18 metals property or is an employee, agent, or other person authorized to sell  
19 the property on behalf of the owner:

20 a. Any catalytic converter.

21 b. Any regulated metal marked with the initials or other identification  
22 of a telephone, cable, electric, water, or other public utility, or any  
23 brewer.

24 c. Any utility access cover.

25 d. Any street light pole or fixture.

26 e. Any road or bridge guard rail.

27 f. Any highway or street sign.

28 g. Any water meter cover.

29 h. Any metal beer keg, including any made of stainless steel that is  
30 clearly marked as being the property of the beer manufacturer.

31 i. Any traffic directional or control sign.

32 j. Any traffic light signal.

33 k. Any regulated metal marked with the name of a government entity.

34 l. Any property owned by a telephone, cable, electric, water, or other  
35 public utility, or owned by a railroad, and marked or otherwise  
36 identified as such.

37 m. Any unused and undamaged building construction or utility material  
38 consisting of copper, pipe, tubing, or wiring, any aluminum wire, any  
39 historical marker, or any grave marker or burial vase.

40 n. Any air conditioner evaporator coil or condenser, in whole or in part.

41 (d1) Retain Metals for Seven Days Before Selling or Altering. – Any secondary metals  
42 recycler owner convicted of a felonious violation of this Chapter, G.S. 14-71, 14-71.1, or 14-72  
43 shall hold and retain any regulated metals product, except for iron and steel products, for seven  
44 days from the date of purchase before selling, dismantling, defacing, or in any manner altering  
45 or disposing of the regulated metals property.

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

49 (e1) Theft Notification to Recycler. – Any person may notify a secondary metals  
50 recycler of regulated metals property of a known or presumed theft of regulated metals

1 products by providing any information concerning the theft that is available to that person,  
2 including any one or more of the following:

3 (1) The approximate quantity and size of the regulated metals products stolen.

4 (2) The geographical area from which the regulated metals products were  
5 reported missing or presumed stolen.

6 (3) Any specific distinguishing marks on or in the regulated metals products or  
7 any other method of identifying the regulated metals products.

8 (e2) Theft Notification to Law Enforcement. – If any regulated metals products meeting  
9 the description in the notice under subsection (e1) of this section are purchased by the  
10 secondary metals recycler or offered for sale to the secondary metals recycler within 90 days of  
11 the recycler receiving this notice, the secondary metals recycler shall notify the local police or  
12 sheriff that the regulated metals products were purchased by or offered for sale to the recycler.

13 (f) Violations. – Unless the conduct is covered by some other provision of law  
14 providing greater punishment, any person knowingly and willfully violating any of the  
15 provisions of this section shall be guilty of a Class 1 misdemeanor for a first offense. A second  
16 or subsequent violation of this section is a Class I felony.

17 (g) Exemptions. – This section shall not apply to purchases of regulated metals property  
18 from a manufacturing, industrial, or other commercial vendor that generates or sells regulated  
19 metals property in the ordinary course of its business. This section does not apply to purchases  
20 of regulated metals property that involve only beverage containers.

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

24 **SECTION 2.** This act becomes effective October 1, 2009, and applies to purchases  
25 and offers of purchase that occur on or after that date.