

**South Carolina General Assembly**  
119th Session, 2011-2012

**A242, R269, S1031**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Lourie, L. Martin, Elliott, Setzler and Alexander

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Introduced in the Senate on January 10, 2012

Introduced in the House on February 29, 2012

Last Amended on May 29, 2012

Passed by the General Assembly on June 6, 2012

Governor's Action: June 18, 2012, Signed

Summary: To increase the age of the vehicle that may be disposed of by a demolisher

**HISTORY OF LEGISLATIVE ACTIONS**

Date	Body	Action Description with journal page number
12/5/2011	Senate	Prefiled
12/5/2011	Senate	Referred to Committee on <b>Judiciary</b>
1/10/2012	Senate	Introduced and read first time ( <a href="#">Senate Journal-page 21</a> )
1/10/2012	Senate	Referred to Committee on <b>Judiciary</b> ( <a href="#">Senate Journal-page 21</a> )
1/18/2012	Senate	Committee report: Favorable with amendment <b>Judiciary</b> ( <a href="#">Senate Journal-page 6</a> )
1/19/2012		Scrivener's error corrected
2/1/2012	Senate	Committee Amendment Adopted ( <a href="#">Senate Journal-page 33</a> )
2/2/2012		Scrivener's error corrected
2/21/2012	Senate	Amended ( <a href="#">Senate Journal-page 9</a> )
2/22/2012		Scrivener's error corrected
2/23/2012	Senate	Read second time ( <a href="#">Senate Journal-page 14</a> )
2/23/2012	Senate	Roll call Ayes-32 Nays-0 ( <a href="#">Senate Journal-page 14</a> )
2/28/2012	Senate	Read third time and sent to House ( <a href="#">Senate Journal-page 15</a> )
2/29/2012	House	Introduced and read first time ( <a href="#">House Journal-page 6</a> )
2/29/2012	House	Referred to Committee on <b>Education and Public Works</b> ( <a href="#">House Journal-page 6</a> )
3/29/2012	House	Committee report: Favorable with amendment <b>Education and Public Works</b> ( <a href="#">House Journal-page 81</a> )
4/24/2012	House	Debate adjourned until Tues., 05-01-12 ( <a href="#">House Journal-page 42</a> )
5/1/2012	House	Debate adjourned ( <a href="#">House Journal-page 23</a> )
5/1/2012	House	Requests for debate-Rep(s). Thayer, Hixon, JR Smith, Bedingfield, Corbin, White, Bales, Tallon, Brannon, Brady ( <a href="#">House Journal-page 33</a> )
5/2/2012	House	Amended ( <a href="#">House Journal-page 11</a> )
5/2/2012	House	Debate adjourned until Thur., 05-03-12 ( <a href="#">House Journal-page 11</a> )
5/2/2012	House	Requests for debate removed-Rep(s). Tallon, Bedingfield, GR Smith, Corbin, Hixon, Thayer, Brannon, White ( <a href="#">House Journal-page 11</a> )
5/3/2012	House	Read second time ( <a href="#">House Journal-page 44</a> )
5/3/2012	House	Roll call Yeas-91 Nays-0 ( <a href="#">House Journal-page 45</a> )
5/8/2012		Scrivener's error corrected
5/8/2012	House	Reconsidered ( <a href="#">House Journal-page 7</a> )
5/8/2012	House	Amended ( <a href="#">House Journal-page 9</a> )
5/8/2012	House	Read second time ( <a href="#">House Journal-page 9</a> )

5/8/2012 House Roll call Yeas-113 Nays-0 ([House Journal-page 9](#))  
5/9/2012 House Read third time and returned to Senate with amendments  
5/9/2012 Scrivener's error corrected  
5/29/2012 Senate House amendment amended ([Senate Journal-page 63](#))  
5/29/2012 Senate Roll call Ayes-39 Nays-0 ([Senate Journal-page 63](#))  
5/29/2012 Senate Returned to House with amendments ([Senate Journal-page 63](#))  
6/5/2012 House Debate adjourned until Wed., 06-06-12 ([House Journal-page 102](#))  
6/6/2012 House Concurred in Senate amendment and enrolled ([House Journal-page 43](#))  
6/6/2012 House Roll call Yeas-89 Nays-2 ([House Journal-page 45](#))  
6/12/2012 Ratified R 269  
6/18/2012 Signed By Governor  
6/25/2012 Effective date See Act for Effective Date  
6/27/2012 Act No. 242

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## **VERSIONS OF THIS BILL**

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(A242, R269, S1031)

**AN ACT TO AMEND SECTION 16-11-523, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO UNLAWFULLY OBTAINING NONFERROUS METALS, SO AS TO REVISE THE DEFINITION OF “NONFERROUS METALS”, AND TO PROVIDE FOR THE REVOCATION OF A PERMIT TO PURCHASE NONFERROUS METALS HELD BY A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION; TO AMEND SECTION 16-17-680, AS AMENDED, RELATING TO SECONDARY METALS RECYCLERS’ PERMITS TO PURCHASE NONFERROUS METALS AND TRANSPORT AND SELL NONFERROUS METALS, SO AS TO REVISE THE DEFINITIONS OF CERTAIN TERMS, AND TO REVISE THE PROVISIONS THAT REGULATE SECONDARY METALS RECYCLERS WHO PURCHASE NONFERROUS METALS; TO AMEND SECTIONS 40-27-10 AND 40-27-20, BOTH RELATING TO REQUIRING A PERSON WHO BUYS JUNK TO KEEP A RECORD OF PERSONS WHO SELL JUNK TO HIM AND KEEP EACH ARTICLE OF JUNK PURCHASED FOR A SEVENTY-TWO HOUR PERIOD, SO AS TO PROVIDE THAT THESE PROVISIONS APPLY TO JUNK THAT DOES NOT CONSIST OF NONFERROUS METALS; TO AMEND SECTION 56-3-1380, RELATING TO THE RETURN OF THE REGISTRATION CARD, LICENSE PLATE, AND REVALIDATION STICKER TO THE DEPARTMENT OF MOTOR VEHICLES OF A MOTOR VEHICLE THAT HAS BEEN DISMANTLED OR WRECKED, SO AS TO PROVIDE THAT A PERSON WHO DISPOSES OF A VEHICLE TO A DEMOLISHER OR SECONDARY METALS RECYCLER CAN SURRENDER THE TITLE CERTIFICATE TO THE DEMOLISHER OR SECONDARY METALS RECYCLER SO THAT THE DEMOLISHER OR SECONDARY METAL RECYCLER CAN SURRENDER THE TITLE CERTIFICATE TO THE DEPARTMENT OF MOTOR VEHICLES; TO AMEND SECTION 56-5-5640, RELATING TO THE SALE OF UNCLAIMED VEHICLES, SO AS TO PROVIDE THAT THE OFFICE OF COURT ADMINISTRATION SHALL DESIGN A UNIFORM MAGISTRATES ORDER OF SALE AND DISTRIBUTE IT TO MAGISTRATES AND PROVIDE THAT THE ORDER OF SALE MUST BE SUFFICIENT TITLE FOR TRANSFERRING A VEHICLE TO A DEMOLISHER OR SECONDARY METALS RECYCLER; TO REPEAL SECTION**

**56-5-5660 RELATING TO APPLICATIONS FOR AND THE ISSUANCE OF DISPOSAL AUTHORITY CERTIFICATES; TO AMEND SECTIONS 56-5-5670 AND 56-5-5945, BOTH AS AMENDED, RELATING TO THE DUTIES THAT A DEMOLISHER WHO PURCHASES OR ACQUIRES CERTAIN VEHICLES OR NONFERROUS METALS MUST PERFORM, SO AS TO PROVIDE DEFINITIONS FOR CERTAIN TERMS, PROVIDE THAT A DEMOLISHER OR SECONDARY METALS RECYCLER MAY NOT DISPOSE OF A VEHICLE WITHOUT RECEIVING A VALID CERTIFICATE OF TITLE, A VALID MAGISTRATE'S ORDER OF SALE, OR A VALID SHERIFF'S DISPOSAL AUTHORITY CERTIFICATE, TO PROVIDE THE CIRCUMSTANCES IN WHICH A VEHICLE MAY BE DISPOSED OF BY A DEMOLISHER OR SECONDARY METALS RECYCLER WHEN A CERTIFICATE OF TITLE, MAGISTRATE'S ORDER OF SALE, OR SHERIFF'S DISPOSAL AUTHORITY CERTIFICATE IS NOT AVAILABLE, TO REVISE THE RECORD KEEPING PROVISIONS THAT APPLY TO DEMOLISHERS AND SECONDARY METAL RECYCLERS, TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES SHALL CONVENE A WORKING GROUP FOR THE PURPOSE OF ASSISTING IN THE DEVELOPMENT OF FORMS AND REGULATIONS TO IMPLEMENT THE PROVISIONS CONTAINED IN THIS SECTION, AND TO REVISE THE PENALTY FOR A VIOLATION OF THESE PROVISIONS; AND TO AMEND SECTION 56-19-480, RELATING TO THE TRANSFER AND SURRENDER OF CERTIFICATES OF TITLE, LICENSE PLATES, REGISTRATION CARDS AND MANUFACTURERS SERIAL PLATES OF VEHICLES SOLD AS SALVAGE, ABANDONED, SCRAPPED, OR DESTROYED, SO AS TO PROVIDE THAT THIS PROVISION DOES NOT APPLY TO A DEMOLISHER OR SECONDARY METALS RECYCLER, AND TO PROVIDE THAT A PERSON WHO DISPOSES OF A VEHICLE TO A DEMOLISHER OR SECONDARY METALS RECYCLER SHALL PROVIDE THE VEHICLE'S TITLE CERTIFICATE TO THE DEMOLISHER OR SECONDARY METALS RECYCLER SO THAT THEY CAN SURRENDER IT TO THE DEPARTMENT OF MOTOR VEHICLES.**

Be it enacted by the General Assembly of the State of South Carolina:

## **Obtaining nonferrous metals**

SECTION 1. Section 16-11-523 of the 1976 Code, as last amended by Act 68 of 2011, is further amended to read:

“Section 16-11-523. (A) For purposes of this section, ‘nonferrous metals’ means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead-acid batteries, steel propane gas tanks, and stainless steel beer kegs or containers.

(B) It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure any personal or real property, including any fixtures or improvements, for the purpose of obtaining nonferrous metals in any amount.

(C) A person who violates a provision of this section is guilty of a:

(1) misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is less than five thousand dollars; or

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is five thousand dollars or more.

(D)(1) A person who violates the provisions of this section and the violation results in great bodily injury to another person is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years. For purposes of this subsection, ‘great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2) A person who violates the provisions of this section and the violation results in the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(E) A person who violates the provisions of this section and the violation results in disruption of communication or electrical service to critical infrastructure or more than ten customers of the communication or electrical service is guilty of a misdemeanor, and, upon conviction,

must be fined in the discretion of the court or imprisoned not more than three years, or both.

(F) If a person is convicted of violating the provisions of this section and the person has been issued a permit pursuant to Section 16-17-680, the permit must be revoked.

(G)(1) A public or private owner of personal or real property is not civilly liable to a person who is injured during the theft or attempted theft, by the person or a third party, of nonferrous metals in any amount.

(2) A public or private owner of personal or real property is not civilly liable for a person's injuries caused by a dangerous condition created as a result of the theft or attempted theft of nonferrous metals in any amount, of the owner when the owner of personal or real property did not know and could not have reasonably known of the dangerous condition.

(3) This subsection does not create or impose a duty of care upon a owner of personal or real property that would not otherwise exist under common law."

### **Secondary metals recyclers**

SECTION 2. Section 16-17-680 of the 1976 Code, as last amended by Act 68 of 2011, is further amended to read:

"Section 16-17-680. (A) For purposes of this section:

(1) 'Fixed site' means a site occupied by a secondary metals recycler as the owner of the site or as a lessee of the site under a lease or other rental agreement providing for occupation of the site by a secondary metals recycler for a total duration of not less than three hundred sixty-four days.

(2) 'Nonferrous metals' means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, cooper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead-acid batteries, steel propane gas tanks, and stainless steel beer kegs or containers.

(3) 'Secondary metals recycler' means a person or entity who is engaged, from a fixed site or otherwise, in the business of paying compensation for nonferrous metals that have served their original economic purpose, whether or not the person is engaged in the business of performing the manufacturing process by which nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.

(B)(1) A secondary metals recycler shall obtain a permit to purchase nonferrous metals. A secondary metals recycler's employee is not required to obtain a separate permit to purchase nonferrous metals provided that the employee is acting within the scope and duties of their employment with the secondary metals recycler. A secondary metals recycler's employee who intends to purchase nonferrous metals on behalf of the secondary metals recycler at a location other than a fixed site shall have a copy of the secondary metals recycler's permit readily available for inspection.

(2) If a secondary metals recycler intends to purchase nonferrous metals at a fixed site or fixed sites, the secondary metals recycler shall obtain a permit from the sheriff of the county in which each of the secondary metals recycler's fixed sites are located. The sheriff may issue the permit to the secondary metals recycler, if the secondary metals recycler:

(a) has a fixed site or fixed sites located in the sheriff's county;

(b) has not been convicted of a violation of Section 16-11-523 or this section; and

(c) declares on an application provided by the sheriff that the secondary metals recycler is informed of and will comply with the provisions of this section.

(3) If a secondary metals recycler intends to purchase nonferrous metals at a location other than a fixed site, the secondary metals recycler shall obtain a permit from the sheriff of each county in which the secondary metals recycler intends to purchase nonferrous metals. The sheriff may issue the permit to the secondary metals recycler if the secondary metals recycler:

(a) can sufficiently demonstrate to the sheriff the secondary metals recycler's ability to comply with the provisions of this section;

(b) has not been convicted of a violation of Section 16-11-523 or this section; and

(c) declares on an application provided by the sheriff that the secondary metals recycler is informed of and will comply with the provisions of this section.

(4) The South Carolina Law Enforcement Division shall develop the application and permit in consultation with the state's sheriffs and representatives from the secondary metals recyclers' industry.

(5) A sheriff may investigate a secondary metals recycler's background prior to issuing a permit for purposes of determining if the secondary metals recycler qualifies to be issued a permit.

(6) A sheriff may charge and retain a two hundred dollar fee for each permit.

(7) A sheriff shall keep a record of all permits issued containing, at a minimum, the date of issuance, and the name and address of the secondary metals recycler.

(8) A permit is valid for twenty-four months.

(9) A permit may be denied, suspended, or revoked at any time if a sheriff discovers that the information on an application is inaccurate, a secondary metals recycler does not comply with the requirements of this section, or a secondary metals recycler is convicted of a violation of Section 16-11-523 or this section.

(10) A sheriff shall issue permits during regular business hours.

(C)(1) A person or entity who wants to transport or sell nonferrous metals to a secondary metals recycler shall obtain a permit to transport and sell the nonferrous metals. An entity's employee is not required to obtain a separate permit to transport or sell nonferrous metals provided that the employee is acting within the scope and duties of their employment with the entity. An entity's employee who intends to transport and sell nonferrous metals on behalf of an entity shall have a copy of the entity's permit readily available for inspection.

(2) If a person is a resident of South Carolina or an entity is located in South Carolina, the person or entity shall obtain a permit from the sheriff of the county in which the person resides or has a secondary residence or in which the entity is located or has a secondary business. The sheriff may issue the permit to the person or entity if the:

(a) person resides or has a secondary residence or the entity is located or has a secondary business in the sheriff's county;

(b) person or entity has not been convicted of a violation of Section 16-11-523 or this section; and

(c) person or entity declares on an application provided by the sheriff that the person or entity is informed of and will comply with the provisions of this section.

(3) If a person is not a resident of South Carolina or an entity is not located in South Carolina, the person or entity shall obtain a permit from any sheriff of any county. The sheriff may issue the permit to the person or entity if the:

(a) person is not a resident of South Carolina or the entity is not located in South Carolina;

(b) person or entity has not been convicted of a violation of Section 16-11-523 or this section; and

(c) person or entity declares on an application provided by the sheriff that the person or entity is informed of and will comply with the provisions of this section.



(4) The South Carolina Law Enforcement Division shall develop the application and permit in consultation with the state's sheriffs and representatives of the secondary metals recyclers' industry.

(5) A sheriff may investigate a person or entity's background prior to issuing a permit for purposes of determining if the person or entity qualifies to be issued a permit.

(6) A sheriff may not charge a fee for a permit. A sheriff may charge a ten dollar fee to replace a permit that has been lost or destroyed. If the original permit is later found by the person or entity, the person or entity must turn the original permit into the sheriff or destroy the original permit.

(7) A sheriff shall keep a record of all permits issued containing, at a minimum, the date of issuance, the name and address of the person or entity, a photocopy of the person's identification or of the employee's identification, and the person's photograph or the entity's employee's photograph.

(8) A permit is valid statewide and expires on the person's birth date on the second calendar year after the calendar year in which the permit is issued, or, if the permittee is an entity, the permit expires on the date of issuance on the second calendar year after the calendar year in which the permit is issued.

(9) A permit may be denied, suspended, or revoked at any time if a sheriff discovers that the information on an application is inaccurate, a person or entity does not comply with the requirements of this section, or a person or entity is convicted of a violation of Section 16-11-523 or this section.

(10)(a) It is unlawful for a person or entity to obtain a permit to transport and sell nonferrous metals for the purpose of transporting or selling stolen nonferrous metals.

(b) A person who violates a provision of this subitem is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The person or entity's permit must be revoked.

(11) A sheriff shall issue permits during regular business hours.

(D)(1) It is unlawful to purchase nonferrous metals in any amount for the purpose of recycling the nonferrous metals from a seller unless the purchaser is a secondary metals recycler who has a valid permit to purchase nonferrous metals issued pursuant to subsection (B) and the seller has a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C). A secondary metals recycler may hold a seller's nonferrous metals while the seller obtains a permit to transport and sell nonferrous metals pursuant to subsection (C).

(2) A secondary metals recycler shall maintain a record containing, at a minimum, the date of purchase, the name and address of the seller, a photocopy of the seller's identification, a photocopy of the seller's permit to transport and sell nonferrous metals, if applicable, the license plate number of the seller's motor vehicle, if available, the seller's photograph, the weight and size or other description of the nonferrous metals purchased, the amount paid for the nonferrous metals, and a signed statement from the seller stating that the seller is the rightful owner or is entitled to sell the nonferrous metals being sold. If the secondary metals recycler has the seller's photograph on file, the secondary metals recycler may reference the photograph on file without making a photograph for each transaction; however, the secondary metals recycler shall update the seller's photograph on an annual basis. A secondary metals recycler may use a video of the seller in lieu of a photograph provided the secondary metals recycler maintains the video for at least one hundred twenty days. A secondary metals recycler may maintain a record in an electronic database provided that the information is legible and can be accessed by law enforcement upon request.

(3) All nonferrous metals that are purchased by and are in the possession of a secondary metals recycler and all records required to be kept by this section must be maintained and kept open for inspection by law enforcement officials or local and state governmental agencies during regular business hours. The records must be maintained for one year from the date of purchase.

(4) A secondary metals recycler shall not enter into a cash transaction in payment for the purchase of copper, catalytic converters, and beer kegs. Payment for the purchase of copper, catalytic converters, and beer kegs must be made by check alone issued and made payable to the seller. A secondary metals recycler shall neither cash a check issued pursuant to this item nor use an automated teller machine (ATM) or other cash card system in lieu of a check.

(5) A secondary metals recycler shall prominently display a twenty-inch by thirty-inch sign in the secondary metals recycler's fixed site that states: 'NO NONFERROUS METALS, INCLUDING COPPER, MAY BE PURCHASED BY A SECONDARY METALS RECYCLER FROM A SELLER UNLESS THE SELLER IS A HOLDER OF A RETAIL LICENSE, AN AUTHORIZED WHOLESALER, A CONTRACTOR LICENSED PURSUANT TO ARTICLE 1, CHAPTER 11, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, A GAS, ELECTRIC, COMMUNICATIONS, WATER, PLUMBING, ELECTRICAL, OR CLIMATE CONDITIONING SERVICE PROVIDER, OR THE SELLER

PRESENTS THE SELLER'S VALID PERMIT TO TRANSPORT AND SELL NONFERROUS METALS ISSUED PURSUANT TO SECTION 16-17-680, CODE OF LAWS OF SOUTH CAROLINA, 1976.'

(6) A purchaser who violates a provision of this subsection:

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third offense or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute a prior offense within the meaning of this subsection.

If the purchaser obtained a permit to purchase nonferrous metals pursuant to subsection (B), the permit must be revoked.

(E)(1)(a) It is unlawful to sell nonferrous metals in any amount to a secondary metals recycler unless the secondary metals recycler has a valid permit to purchase nonferrous metals issued pursuant to subsection (B) and the seller has a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C).

(b) A seller who violates a provision of this subitem:

(i) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than one year, or both;

(ii) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than five hundred dollars or imprisoned not more than three years, or both; and

(iii) for a third or subsequent offense, is guilty of a felony, and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than five years, or both.

If the seller obtained a permit to transport and sell nonferrous metals pursuant to subsection (C), the permit must be revoked.

(2)(a) It is unlawful to purchase or otherwise acquire nonferrous metals in any amount from a seller who does not have a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C) with the intent to resell the nonferrous metals in any amount to a

secondary metals recycler using the purchaser's valid permit to transport and sell nonferrous metals issued pursuant to subsection (C).

(b) A purchaser who violates a provision of this subitem is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The purchaser's permit must be revoked.

(F)(1) When a law enforcement officer has reasonable cause to believe that any item of nonferrous metal in the possession of a secondary metals recycler has been stolen, the law enforcement officer may issue a hold notice to the secondary metals recycler. The hold notice must be in writing, be delivered to the secondary metals recycler, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the notice, and inform the secondary metals recycler of the information contained in this subsection. Upon receipt of the notice, the secondary metals recycler must not process or remove the items of nonferrous metal identified in the notice, or any portion thereof, from the secondary metal recycler's fixed site for fifteen calendar days after receipt of the notice unless released prior to the fifteen-day period by the law enforcement officer.

(2) No later than the expiration of the fifteen-day period, a law enforcement officer may issue a second hold notice to the secondary metals recycler, which shall be an extended hold notice. The extended hold notice must be in writing, be delivered to the secondary metals recycler, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the extended hold notice, and inform the secondary metals recycler of the information contained in this subsection. Upon receipt of the extended hold notice, the secondary metals recycler must not process or remove the items of nonferrous metal identified in the notice, or any portion thereof, from the secondary metals recycler's fixed site for thirty calendar days after receipt of the extended hold notice unless released prior to the thirty-day period by the law enforcement officer.

(3) At the expiration of the hold period or, if extended, at the expiration of the extended hold period, the hold is automatically released and the secondary metals recycler may dispose of the nonferrous metals unless other disposition has been ordered by a court of competent jurisdiction.

(4) A secondary metals recycler who violates a provision of this subsection:

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days;

(b) for a second offense, is guilty of a misdemeanor, and, upon

conviction, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense shall constitute a prior offense within the meaning of this subsection.

The secondary metals recycler's permit to purchase nonferrous metals issued pursuant to subsection (B) must be revoked.

(G)(1) It is unlawful to transport nonferrous metals in a vehicle or have nonferrous metals in a person's possession in a vehicle on the highways of this State.

(2) Subsection (G)(1) does not apply if:

(a) the person can present a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C); or

(b) the person can present a valid bill of sale for the nonferrous metals.

(3) If a law enforcement officer determines that one or more of the exceptions listed in subsection (G)(2) applies, or the law enforcement officer determines that the nonferrous metals are not stolen goods and are in the rightful possession of the person, the law enforcement officer shall not issue a citation for a violation of this subsection.

(4) A person who violates a provision of subsection (G)(1):

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute a prior offense within the meaning of this subsection.

(5) If a person transports nonferrous metals that the person knows are stolen in a vehicle or has in the person's possession in a vehicle on the highways of this State nonferrous metals that the person

knows are stolen, is operating a vehicle used in the ordinary course of business to transport nonferrous metals that the person knows are stolen, presents a valid or falsified permit to transport and sell nonferrous metals that the person knows are stolen, or presents a valid or falsified bill of sale for nonferrous metals that the person knows to be stolen, the person is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. If the person obtained a permit to transport and sell nonferrous metals pursuant to subsection (C), the permit must be revoked.

(H) For purposes of this section, the only acceptable identification is a valid:

(1) South Carolina driver's license issued by the Department of Motor Vehicles;

(2) South Carolina identification card issued by the Department of Motor Vehicles;

(3) driver's license from another state that contains the licensee's picture on the face of the license; or

(4) military identification card.

(I) A secondary metals recycler must not purchase or otherwise acquire an iron or steel:

(1) manhole cover; or

(2) drainage grate.

(J)(1) Except as provided in item (2), the provisions of this section do not apply to:

(a) the purchase or sale of aluminum cans;

(b) a transaction between a secondary metals recycler and another secondary metals recycler;

(c) a governmental entity;

(d) a manufacturing or industrial vendor that generates or sells regulated metals in the ordinary course of its business;

(e) a holder of a retail license, an authorized wholesaler, an automobile demolisher as defined in Section 56-5-5810(d), a contractor licensed pursuant to Chapter 11, Title 40, a residential home builder licensed pursuant to Chapter 59, Title 40, a demolition contractor, a provider of gas service, electric service, communications service, water service, plumbing service, electrical service, climate conditioning service, core recycling service, appliance repair service, automotive repair service, or electronics repair service; or

(f) organizations, corporations, or associations registered with the State as charitable organizations or any nonprofit corporation.

(2) An exempted entity listed in item (1) is subject to the provisions of subsection (C)(10) and subsection (G)(5).

A secondary metals recycler shall maintain a record of transactions involving exempted entities listed in item (1) pursuant to subsection (D) and is subject to the penalty provisions of subsection (D)(6). Any item of nonferrous metals acquired from an exempted entity listed in item (1) is subject to a hold notice pursuant to subsection (F).

(K) This section preempts local ordinances and regulations governing the purchase, sale, or transportation of nonferrous metals in any amount, except to the extent that such ordinances pertain to zoning or business license fees. Political subdivisions of the State may not enact ordinances or regulations more restrictive than those contained in this section.”

### **Junk dealers**

SECTION 3. Section 40-27-10 of the 1976 Code is amended to read:

“Section 40-27-10. A person or entity buying junk other than junk that consists of nonferrous metals, as defined by Section 16-17-680, or vehicles shall keep a book that the person or entity shall keep open to the inspection of all persons, wherein the person or entity shall set down the name and address, city, and street of every person selling junk and an itemized statement of all junk bought from such persons and the purchase dates. A person or entity buying junk that consists of nonferrous metals, as defined by Section 16-17-680, is subject to the provisions of Section 16-17-680. A person or entity buying junk that consists of vehicles is subject to the provisions of Sections 56-5-5670 and 56-5-5945.”

### **Junk dealers**

SECTION 4. Section 40-27-20 of the 1976 Code is amended to read:

“Section 40-27-20. A person or entity shall keep each article of junk purchased other than junk that consists of nonferrous metals, as defined by Section 16-17-680, and vehicles for a period of seventy-two hours following the purchase and shall keep the junk open to the inspection of all persons. A person or entity buying junk that consists of nonferrous metals, as defined by Section 16-17-680, is subject to the provisions of Section 16-17-680. A person or entity buying junk that consists of vehicles is subject to the provisions of Sections 56-5-5670 and 56-5-5945.”

## **Return of registration cards and license plates**

SECTION 5. Section 56-3-1380 of the 1976 Code is amended to read:

“Section 56-3-1380. An owner who dismantles or wrecks a vehicle registered and licensed pursuant to this chapter shall forward to the Department of Motor Vehicles the registration card, license plate, and revalidation sticker last issued for the vehicle. A person or entity who disposes of a vehicle to a demolisher or secondary metals recycler shall provide the vehicle’s title certificate to the demolisher or secondary metals recycler so that the demolisher or secondary metals recycler can surrender the title certificate to the Department of Motor Vehicles pursuant to Sections 56-5-5670 and 56-5-5945.”

## **Sale of unclaimed vehicles**

SECTION 6. Section 56-5-5640 of the 1976 Code is amended to read:

“Section 56-5-5640. If an abandoned vehicle has not been reclaimed pursuant to Section 56-5-5630, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may have the abandoned vehicle sold at a public auction pursuant to Section 29-15-10. The vehicle’s purchaser shall take title to the vehicle free and clear of all liens and claims of ownership, shall receive a magistrate’s order of sale, and is entitled to register the purchased vehicle and receive a certificate of title. The Office of Court Administration shall design a uniform magistrate’s order of sale for purposes of this section, Section 56-5-5670, and Section 56-5-5945, and shall make the order available for distribution to the magistrates. The magistrate’s order of sale given at the sale must be sufficient title for purposes of transferring the vehicle to a demolisher or secondary metals recycler for demolition, wrecking, or dismantling, and in such case no further titling of the vehicle is necessary. The expenses of the auction, the costs of towing, preserving, and storing the vehicle which resulted from placing the vehicle in custody, and all notice and publication costs incurred pursuant to Section 29-15-10 must be reimbursed up to the amount of the auction sale price from the vehicle’s sale proceeds. The remaining sale proceeds must be held for the vehicle’s owner or entitled lienholder for ninety days. The magistrate shall notify the vehicle’s owner and all lienholders by certified or registered mail, return receipt requested, that the vehicle’s owner or lienholder has ninety days to claim the proceeds from the vehicle’s sale. If the vehicle’s proceeds are not collected within ninety



days from the day after the notice to the vehicle's owner and all lienholders is mailed, then the vehicle's proceeds must be deposited in the county or municipality's general fund."

### **Repeal**

SECTION 7. Section 56-5-5660 of the 1976 Code is repealed.

### **Duties of demolishers**

SECTION 8. Section 56-5-5670 of the 1976 Code, as last amended by Act 26 of 2009, is further amended to read:

"Section 56-5-5670. (A) For purposes of this section, 'vehicle' has the same meaning as defined by Section 56-5-120 and includes, but is not limited to, a 'trailer', as defined by Section 56-5-240, a 'semitrailer', as defined by Section 56-5-250, and a 'pole trailer', as defined by Section 56-5-260.

(B)(1) Except as provided by subsections (C), (D), and (E), a person or entity may not dispose of a vehicle to a demolisher or secondary metals recycler without a valid title certificate for the vehicle in the person or entity's name. The person or entity shall provide the vehicle's title certificate to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the certificate of title to the Department of Motor Vehicles for cancellation.

(3) The Department of Motor Vehicles shall issue forms and regulations governing the surrender of certificates of title as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a title certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(C)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler with a valid magistrate's order of sale in

lieu of a title certificate, if the person or entity purchases the vehicle at a public auction pursuant to Section 56-5-5640. The person or entity shall provide the magistrate's order of sale to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the magistrate's order of sale to the Department of Motor Vehicles.

(3) The Office of Court Administration shall design a uniform magistrate's order of sale for purposes of this subsection and Section 56-5-5640, and shall make the order available for distribution to the magistrates. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of magistrates' orders of sale as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a magistrate's order of sale pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(D)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler with a valid sheriff's disposal authority certificate in lieu of a title certificate, if the vehicle is abandoned upon the person or entity's property or into the person or entity's possession and the vehicle does not meet the requirements of subsection (E)(1). The person or entity shall provide the sheriff's disposal authority certificate to the demolisher or secondary metals recycler.

(2) The person or entity shall apply to the sheriff of the jurisdiction in which the vehicle is located for a disposal authority certificate to dispose of the vehicle to a demolisher or secondary metals recycler. The application must provide, at a minimum, the person or entity's name and address, the year, make, model, and identification number of the vehicle, if ascertainable, along with any other identifying features, and must contain a concise statement of the facts surrounding the abandonment. The person or entity shall execute an affidavit stating that the facts alleged are true and that no material fact has been withheld. If the sheriff determines that the application is executed in proper form, and the application demonstrates that the vehicle has been abandoned upon the person or entity's property or into the person or

entity's possession, the notification procedures set forth in Section 56-5-5630 must be followed. If the vehicle is not reclaimed pursuant to Section 56-5-5630, the sheriff shall give the applicant a certificate of authority to dispose of the vehicle to a demolisher or secondary metals recycler. A disposal authority certificate may contain multiple listings.

(3) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the sheriff's disposal authority certificate to the Department of Motor Vehicles.

(4) The South Carolina Law Enforcement Division shall design a uniform sheriff's disposal authority certificate for purposes of this subsection and shall make the certificate available for distribution to the sheriffs. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of sheriffs' disposal authority certificates as appropriate.

(5) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a sheriff's disposal authority certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(E)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler without a title certificate, magistrate's order of sale, or sheriff's disposal authority certificate, if:

(a) the vehicle is abandoned upon the person or entity's property or into the person or entity's possession, or if the person or entity is the owner of the vehicle and the vehicle's title certificate is faulty, lost, or destroyed; and

(b) the vehicle:

- (i) is lawfully in the person or entity's possession;
- (ii) is twelve model years old or older;
- (iii) does not have a valid registration plate affixed; and
- (iv) has no engine or is otherwise totally inoperable.

(2) The person or entity shall complete and sign a form affirming that the vehicle complies with the requirements of subsection (E)(1). The demolisher or secondary metals recycler shall maintain the original form affidavit in the transaction records as required by this section.

(3) The Department of Motor Vehicles shall develop a form affidavit for purposes of this subsection and shall make the form

affidavit available for distribution to the demolishers and secondary metals recyclers.

(4) Prior to completion of the transaction, the demolisher or secondary metals recycler shall verify with the Department of Motor Vehicles whether the vehicle has been reported stolen. The Department of Motor Vehicles shall develop an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen. The Department of Motor Vehicles shall not charge a demolisher or secondary metals recycler a fee for verifying whether a vehicle has been reported stolen. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has been reported stolen, the demolisher or secondary metals recycler shall not complete the transaction and shall notify the appropriate law enforcement agency. The demolisher or secondary metals recycler is under no obligation to apprehend the person attempting to sell the vehicle. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has not been reported stolen, the demolisher or secondary metals recycler may proceed with the transaction. In such case, the demolisher or secondary metals recycler is not criminally or civilly liable if the vehicle later turns out to be a stolen vehicle, unless the demolisher or secondary metals recycler had some other knowledge that the vehicle was a stolen vehicle.

(5) The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations at the time of the transaction or no later than the end of the day of the transaction. A demolisher or secondary metals recycler who reports vehicles to the National Motor Vehicle Title Information System through a third party consolidator and complies with the requirements of this item if the demolisher or secondary metals recycler reports the vehicle to the third party consolidator so that the third party consolidator is able to transmit the vehicle information to the National Motor Vehicle Title Information System in compliance with federal laws and regulations no later than the end of the day of the transaction.

(6) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a form affidavit pursuant to this subsection shall not wreck, dismantle, demolish, or otherwise dispose of the vehicle until at least three business days after the transaction has taken place.

(F) A demolisher or secondary metals recycler who purchases or otherwise acquires nonferrous metals, as defined by Section 16-17-680, shall comply with and is subject to the provisions of Section 16-17-680.

(G)(1) A demolisher or secondary metals recycler shall keep an accurate and complete record of all vehicles purchased or received by the demolisher or secondary metals recycler in the course of business. A demolisher, but not a secondary metals recycler, also shall keep an accurate and complete record of all vehicle parts with a total weight of twenty-five pounds or more purchased or received by the demolisher in the course of business. These records must contain, at a minimum:

(a) the demolisher or secondary metals recycler's name and address;

(b) the name of the demolisher or secondary metals recycler's employee entering the information;

(c) the name and address of the person or entity from whom the vehicle or vehicle parts, as applicable, were purchased or received;

(d) a photo or copy of the person's driver's license or other government issued picture identification card that legibly shows the person's name and address. If the vehicle or vehicle parts, as applicable, are being purchased or received from an entity, the demolisher or secondary metals recycler shall obtain a photo or copy of the entity's agent's driver's license or other government issued picture identification card. If the demolisher or secondary metals recycler has a photo or copy of the person or entity's agent's identification on file, the demolisher or secondary metals recycler may reference the identification on file without making a photocopy for each transaction;

(e) the date when the purchases or receipts occurred;

(f) the year, make, model, and identification number of the vehicle or vehicle parts, as applicable and if ascertainable, along with any other identifying features; and

(g) a copy of the title certificate, magistrate's order of sale, sheriff's disposal authority certificate, or an original form affidavit, as applicable.

(2) The records must be kept open for inspection by any law enforcement officer at any time during normal business hours. All vehicles on the demolisher or secondary metals recycler's property or otherwise in the possession of the demolisher or secondary metals recycler must be available for inspection by any law enforcement officer at any time during normal business hours.

(3) Records required by this section must be kept by the demolisher or secondary metals recycler for at least one year after the transaction to which it applies. A demolisher or secondary metals recycler may maintain records in an electronic database provided that

the information is legible and can be accessed by law enforcement upon request.

(H)(1) A person who violates the provisions of this section for a first offense is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars for each offense not to exceed five thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than sixty days, or both. Each violation constitutes a separate offense. For a second or subsequent offense, the person is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars for each offense not to exceed ten thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than three years, or both. Each violation constitutes a separate offense.

(2) A person who falsifies any information on an application, form, or affidavit required by this section is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars, or imprisoned for not less than one year nor more than three years, or both.

(3) In lieu of criminal penalties, the Department of Motor Vehicles' director, or the director's designee, may issue an administrative fine not to exceed one thousand dollars for each violation, whenever the director, or the director's designee, after a hearing, determines that a demolisher or secondary metals recycler has unknowingly and unwilfully violated any provisions of this section. The hearing and any administrative review must be conducted in accordance with the procedure for contested cases under the Administrative Procedures Act. The proceeds from the administrative fine must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of implementing this section.

(4) A vehicle used to transport a vehicle or vehicle parts, as applicable, illegally disposed of in violation of this section may be seized by law enforcement and is subject to forfeiture; provided, however, that no vehicle is subject to forfeiture unless it appears that the owner or other person in charge of the vehicle is a consenting party or privy to the commission of the crime, and a forfeiture of the vehicle encumbered by a security interest is subject to the interest of the secured party who had no knowledge of or consented to the act. The seizure and forfeiture must be accomplished in accordance with the provisions of Section 56-29-50.

(I) The Department of Motor Vehicles shall convene a working group chaired by the Director of the Department of Motor Vehicles, or the director's designee, for the purpose of assisting in the development

of a form affidavit to be used for the disposal of vehicles to demolishers or secondary metals recyclers, the development of an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen, and assisting in the development of forms and regulations pursuant to this section. The working group must consist of representatives from the demolishing industry, secondary metals recycling industry, the trucking industry, law enforcement agencies, and other relevant agencies, organizations, or industries as determined by the director, or the director's designee."

### **Duties of demolishers**

SECTION 9. Section 56-5-5945 of the 1976 Code, as last amended by Act 26 of 2009, is further amended to read:

"Section 56-5-5945. (A) For purposes of this section, 'vehicle' has the same meaning as defined by Section 56-5-120, and includes, but is not limited to, a 'trailer', as defined by Section 56-5-240, a 'semitrailer', as defined by Section 56-5-250, and a 'pole trailer', as defined by Section 56-5-260.

(B)(1) Except as provided by subsections (C), (D), and (E), a person or entity may not dispose of a vehicle to a demolisher or secondary metals recycler without a valid title certificate for the vehicle in the person or entity's name. The person or entity shall provide the vehicle's title certificate to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the certificate of title to the Department of Motor Vehicles for cancellation.

(3) The Department of Motor Vehicles shall issue forms and regulations governing the surrender of certificates of title as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a title certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor

Vehicle Title Information System in compliance with federal laws and regulations.

(C)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler with a valid magistrate's order of sale in lieu of a title certificate, if the person or entity purchases the vehicle at a public auction pursuant to Section 56-5-5640. The person or entity shall provide the magistrate's order of sale to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the magistrate's order of sale to the Department of Motor Vehicles.

(3) The Office of Court Administration shall design a uniform magistrate's order of sale for purposes of this subsection and Section 56-5-5640, and shall make the order available for distribution to the magistrates. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of magistrates' orders of sale as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a magistrate's order of sale pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(D)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler with a valid sheriff's disposal authority certificate in lieu of a title certificate, if the vehicle is abandoned upon the person or entity's property or into the person or entity's possession and the vehicle does not meet the requirements of subsection (E)(1). The person or entity shall provide the sheriff's disposal authority certificate to the demolisher or secondary metals recycler.

(2) The person or entity shall apply to the sheriff of the jurisdiction in which the vehicle is located for a disposal authority certificate to dispose of the vehicle to a demolisher or secondary metals recycler. The application must provide, at a minimum, the person or entity's name and address, the year, make, model, and identification number of the vehicle, if ascertainable, along with any other identifying features, and must contain a concise statement of the facts surrounding the abandonment. The person or entity shall execute an affidavit



stating that the facts alleged are true and that no material fact has been withheld. If the sheriff determines that the application is executed in proper form, and the application demonstrates that the vehicle has been abandoned upon the person or entity's property or into the person or entity's possession, the notification procedures set forth in Section 56-5-5630 must be followed. If the vehicle is not reclaimed pursuant to Section 56-5-5630, the sheriff shall give the applicant a certificate of authority to dispose of the vehicle to a demolisher or secondary metals recycler. A disposal authority certificate may contain multiple listings.

(3) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the sheriff's disposal authority certificate to the Department of Motor Vehicles.

(4) The South Carolina Law Enforcement Division shall design a uniform sheriff's disposal authority certificate for purposes of this subsection and shall make the certificate available for distribution to the sheriffs. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of sheriffs' disposal authority certificates as appropriate.

(5) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a sheriff's disposal authority certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(E)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler without a title certificate, magistrate's order of sale, or sheriff's disposal authority certificate, if:

(a) the vehicle is abandoned upon the person or entity's property or into the person or entity's possession, or if the person or entity is the owner of the vehicle and the vehicle's title certificate is faulty, lost, or destroyed; and

(b) the vehicle:

- (i) is lawfully in the person or entity's possession;
- (ii) is twelve model years old or older;
- (iii) does not have a valid registration plate affixed; and
- (iv) has no engine or is otherwise totally inoperable.

(2) The person or entity shall complete and sign a form affirming that the vehicle complies with the requirements of subsection (E)(1).

The demolisher or secondary metals recycler shall maintain the original form affidavit in the transaction records as required by this section.

(3) The Department of Motor Vehicles shall develop a form affidavit for purposes of this subsection and shall make the form affidavit available for distribution to the demolishers and secondary metals recyclers.

(4) Prior to completion of the transaction, the demolisher or secondary metals recycler shall verify with the Department of Motor Vehicles whether the vehicle has been reported stolen. The Department of Motor Vehicles shall develop an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen. The Department of Motor Vehicles shall not charge a demolisher or secondary metals recycler a fee for verifying whether a vehicle has been reported stolen. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has been reported stolen, the demolisher or secondary metals recycler shall not complete the transaction and shall notify the appropriate law enforcement agency. The demolisher or secondary metals recycler is under no obligation to apprehend the person attempting to sell the vehicle. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has not been reported stolen, the demolisher or secondary metals recycler may proceed with the transaction. In such case, the demolisher or secondary metals recycler is not criminally or civilly liable if the vehicle later turns out to be a stolen vehicle, unless the demolisher or secondary metals recycler had some other knowledge that the vehicle was a stolen vehicle.

(5) The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations at the time of the transaction or no later than the end of the day of the transaction. A demolisher or secondary metals recycler who reports vehicles to the National Motor Vehicle Title Information System through a third party consolidator and complies with the requirements of this item if the demolisher or secondary metals recycler reports the vehicle to the third party consolidator so that the third party consolidator is able to transmit the vehicle information to the National Motor Vehicle Title Information System in compliance with federal laws and regulations no later than the end of the day of the transaction.

(6) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a form affidavit pursuant to this subsection shall not wreck, dismantle, demolish, or otherwise dispose

of the vehicle until at least three business days after the transaction has taken place.

(F) A demolisher or secondary metals recycler who purchases or otherwise acquires nonferrous metals, as defined by Section 16-17-680, shall comply with and is subject to the provisions of Section 16-17-680.

(G)(1) A demolisher or secondary metals recycler shall keep an accurate and complete record of all vehicles purchased or received by the demolisher or secondary metals recycler in the course of business. A demolisher, but not a secondary metals recycler, also shall keep an accurate and complete record of all vehicle parts with a total weight of twenty-five pounds or more purchased or received by the demolisher in the course of business. These records must contain, at a minimum:

(a) the demolisher or secondary metals recycler's name and address;

(b) the name of the demolisher or secondary metals recycler's employee entering the information;

(c) the name and address of the person or entity from whom the vehicle or vehicle parts, as applicable, were purchased or received;

(d) a photo or copy of the person's driver's license or other government issued picture identification card that legibly shows the person's name and address. If the vehicle or vehicle parts, as applicable, are being purchased or received from an entity, the demolisher or secondary metals recycler shall obtain a photo or copy of the entity's agent's driver's license or other government issued picture identification card. If the demolisher or secondary metals recycler has a photo or copy of the person or entity's agent's identification on file, the demolisher or secondary metals recycler may reference the identification on file without making a photocopy for each transaction;

(e) the date when the purchases or receipts occurred;

(f) the year, make, model, and identification number of the vehicle or vehicle parts, as applicable and if ascertainable, along with any other identifying features; and

(g) a copy of the title certificate, magistrate's order of sale, sheriff's disposal authority certificate, or an original form affidavit, as applicable.

(2) The records must be kept open for inspection by any law enforcement officer at any time during normal business hours. All vehicles on the demolisher or secondary metals recycler's property or otherwise in the possession of the demolisher or secondary metals recycler must be available for inspection by any law enforcement officer at any time during normal business hours.

(3) Records required by this section must be kept by the demolisher or secondary metals recycler for at least one year after the

transaction to which it applies. A demolisher or secondary metals recycler may maintain records in an electronic database provided that the information is legible and can be accessed by law enforcement upon request.

(H)(1) A person who violates the provisions of this section for a first offense is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars for each offense not to exceed five thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than sixty days, or both. Each violation constitutes a separate offense. For a second or subsequent offense, the person is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars for each offense not to exceed ten thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than three years, or both. Each violation constitutes a separate offense.

(2) A person who falsifies any information on an application, form, or affidavit required by this section is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars, or imprisoned for not less than one year nor more than three years, or both.

(3) In lieu of criminal penalties, the Department of Motor Vehicles' director, or the director's designee, may issue an administrative fine not to exceed one thousand dollars for each violation, whenever the director, or the director's designee, after a hearing, determines that a demolisher or secondary metals recycler has unknowingly and unwilfully violated any provisions of this section. The hearing and any administrative review must be conducted in accordance with the procedure for contested cases under the Administrative Procedures Act. The proceeds from the administrative fine must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of implementing this section.

(4) A vehicle used to transport a vehicle or vehicle parts, as applicable, illegally disposed of in violation of this section may be seized by law enforcement and is subject to forfeiture; provided, however, that no vehicle is subject to forfeiture unless it appears that the owner or other person in charge of the vehicle is a consenting party or privy to the commission of the crime, and a forfeiture of the vehicle encumbered by a security interest is subject to the interest of the secured party who had no knowledge of or consented to the act. The seizure and forfeiture must be accomplished in accordance with the provisions of Section 56-29-50.

(I) The Department of Motor Vehicles shall convene a working group chaired by the Director of the Department of Motor Vehicles, or the director's designee, for the purpose of assisting in the development of a form affidavit to be used for the disposal of vehicles to demolishers or secondary metals recyclers, the development of an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen, and assisting in the development of forms and regulations pursuant to this section. The working group must consist of representatives from the demolishing industry, secondary metals recycling industry, trucking industry, law enforcement agencies, and other relevant agencies, organizations, or industries as determined by the director, or the director's designee."

**Transfer and surrender of certificates, license plates, registration cards**

SECTION 10. Section 56-19-480(A) of the 1976 Code is amended to read:

"(A) An owner who scraps, dismantles, destroys, or in any manner disposes to another, except to a demolisher or secondary metals recycler, as wreckage or salvage, a motor vehicle otherwise required to be titled in this State immediately shall mail or deliver to the Department of Motor Vehicles the vehicle's certificate of title notifying the department to whom the vehicle is delivered together with a report indicating the type and severity of any damage to the vehicle. A person or entity who disposes of a vehicle to a demolisher or secondary metals recycler shall provide the vehicle's title certificate to the demolisher or secondary metals recycler so that the demolisher or secondary metals recycler can surrender the title certificate to the Department of Motor Vehicles pursuant to Sections 56-5-5670 and 56-5-5945."

**Savings clause**

SECTION 11. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of

sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

**Severability clause**

SECTION 12. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 13. Subsection (H) of Section 56-5-5670 of the 1976 Code as contained in SECTION 8 and subsection (H) of Section 56-5-5945 of the 1976 Code as contained in SECTION 9 take effect upon approval by the Governor. All other provisions of this act take effect one hundred eighty days after approval by the Governor.

Ratified the 12<sup>th</sup> day of June, 2012.

Approved the 18<sup>th</sup> day of June, 2012.

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