

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 367*

Short Title: Increase Criminal Penalty/Theft of Metals. (Public)

Sponsors: Representatives Current, Neumann, Moore (Primary Sponsors); Allred, Brown, Brubaker, Cleveland, Daughtridge, Frye, Goodwin, Hilton, Hurley, Johnson, Justice, Justus, McGee, Starnes, Underhill, and Walker.

Referred to: Judiciary II.

February 27, 2007

A BILL TO BE ENTITLED

1 AN ACT TO STRENGTHEN THE LAW REGULATING THE SALE OF CERTAIN
2 METALS BY SECONDARY METALS RECYCLERS AND TO INCREASE THE
3 CRIMINAL PENALTIES FOR VIOLATIONS OF THOSE REGULATIONS, FOR
4 ILLEGAL SALES OF CERTAIN METALS, AND FOR THE INJURY OR
5 DESTRUCTION OF WIRES, PHONE, TELEGRAPH, AND ELECTRICAL
6 FIXTURES TO OBTAIN WIRE OR METALS FOR UNLAWFUL GAIN.
7

8 The General Assembly of North Carolina enacts:

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

10 **"§ 66-11. Dealing in regulated metals property; ~~violations of section Class 1~~**
11 **~~misdemeanor, penalties for violations of section.~~**

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

- 13 (1) "Law enforcement officer" means any duly constituted law
14 enforcement officer of the State or of any municipality or county.
15 (2) "Regulated metals property" means all ferrous and nonferrous metals.
16 (3) "Secondary metals recycler" means any person, firm, or corporation in
17 the State:

- 18 a. That, from a fixed location or otherwise, is predominately
19 engaged in the business of gathering or obtaining ferrous or
20 nonferrous metals that have served their original economic
21 purpose or is in the business of performing the manufacturing
22 process by which ferrous metals or nonferrous metals are
23 converted into raw material products consisting of prepared
24 grades and having an existing or potential economic value; or
25 b. That has facilities for performing the manufacturing process by
26 which ferrous metals or nonferrous metals are converted into
27 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
24 ~~purchased.~~ purchased and the physical address where the
25 regulated metals were obtained by the seller.
- 26 f. The amount of consideration given for the regulated metals
27 property.
- 28 g. The name and address of the vendor of the regulated metals
29 ~~property.~~ property and the license plate number of the vehicle
30 used to deliver the regulated metals.
- 31 h. ~~The~~ A photocopy of the North Carolina drivers license number
32 or North Carolina identification card number ~~issued by the~~
33 ~~Division of Motor Vehicles of the person delivering the~~
34 ~~regulated metals property to the secondary metals recycler, or,~~
35 ~~if recycler. If the person delivering the regulated metals~~
36 ~~property does not have a drivers license or an identification card~~
37 ~~issued by the Division of Motor Vehicles, a signed written~~
38 ~~statement that the delivery person does not have a drivers~~
39 ~~license or an identification card issued by the Division of Motor~~
40 ~~Vehicles.~~ Vehicles, the secondary metals recycler shall not
41 complete the transaction.
- 42 (3) A secondary metals recycler shall keep and maintain the information
43 required under this subsection for not less than two years from the date
44 of the purchase of the regulated metals property.

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

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

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

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

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

13 (f) Violations. – Any person violating any of the provisions of this section shall
14 be guilty of a Class 1 ~~misdemeanor~~ misdemeanor for a first offense. A second or
15 subsequent violation of this section is a Class I felony.

16 (f1) Confiscation of Vehicle Used in Illegal Sale. – Any vehicle used in the
17 commission of an illegal sale of regulated metals may be confiscated and impounded
18 pending final resolution of the charges.

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

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

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

27 "**§ 14-154. Injuring wires and other fixtures of telephone, telegraph and**
28 **electric-power companies.**

29 (a) ~~If~~ Except as provided in subsection (b) of this section, if any person shall
30 willfully injure, destroy or pull down any telegraph, telephone or
31 electric-power-transmission pole, wire, insulator or any other fixture or apparatus
32 attached to a telegraph, telephone or electric-power-transmission line, he shall be guilty
33 of a Class 1 misdemeanor.

34 (b) If any person violates subsection (a) of this section with the intent to sell or
35 use the pole, wire, insulator, or any other fixture or apparatus to obtain any direct or
36 indirect profit, gain, remuneration, or compensation, the person shall be guilty of a
37 Class I felony."

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