



**AN ACT TO AMEND SECTION 58-15-870, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE WILFULL AND MALICIOUS INJURY TO A RAILROAD OR ELECTRIC RAILWAY, SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO WILFULLY AND MALICIOUSLY CUT, MUTILATE, DEFACE, OR OTHERWISE INJURE A RAILROAD OR ELECTRIC RAILWAY, INCLUDING ANYTHING APPERTAINING TO THE RAILROAD OR ELECTRIC RAILWAY OR ANY MATERIAL OR INSTRUMENT FOR THE CONSTRUCTION OF THE RAILROAD OR ELECTRIC RAILWAY, TO PROVIDE A TIER OF PENALTIES FOR VIOLATIONS INCLUDING THOSE VIOLATIONS WHERE SPECIFIED CIRCUMSTANCES ARE PRESENT, AND TO ALSO PROVIDE THAT EXCEPT IN THE CASE OF AN ELECTRIC RAILWAY, THE PERSON COMMITTING THE VIOLATION SHALL FORFEIT TO THE RAILROAD COMPANY FOR EACH OFFENSE TREBLE THE DAMAGES PROVED TO HAVE BEEN SUSTAINED TO BE RECOVERED IN A TORT ACTION IN THE RAILROAD COMPANY'S NAME; AND BY ADDING SECTION 58-15-875 SO AS TO PROVIDE THAT IT IS UNLAWFUL TO PURCHASE, SELL, OR TRANSPORT RAILROAD TRACK MATERIALS FOR THE PURPOSE OF RECYCLING, TO REQUIRE A SPECIFIED METHOD OF PAYMENT FOR RAILROAD TRACK MATERIALS, TO PROVIDE EXCEPTIONS, AND TO PROVIDE A TIER OF PENALTIES FOR VIOLATIONS.**

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

### **Injury to railroad or electric railway, penalties**

SECTION 1. Section 58-15-870 of the 1976 Code is amended to read:

"Section 58-15-870. (A) It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure a railroad or electric railway, including anything appertaining to the railroad or electric railway or any material or instrument for the construction of the railroad or electric railway.

(B) A person who violates this section is guilty of a misdemeanor, and, upon conviction, must be fined not less than one thousand dollars, or imprisoned not more than five years, or both.

(C) A person who violates this section resulting in the endangerment of another person's life or great bodily injury to another person is guilty of a felony, and, upon conviction, must be imprisoned not more than twenty years. '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.

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

(E) In addition to the penalties provided by subsections (B), (C), and (D), except in the case of an electric railway, the person shall forfeit to the railroad company for each offense treble the

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damages proved to have been sustained to be recovered in a tort action in the railroad company's name."

### **Purchase, sell, or transport unlawful, method of payment, penalties**

SECTION 2. Article 9, Chapter 15, Title 58 of the 1976 Code is amended by adding:

"Section 58-15-875. (A) It is unlawful to purchase, sell, or transport railroad track materials for the purpose of recycling.

(B) This section does not apply to:

- (1) a railroad company or a railroad company's authorized agent;
- (2) a business that owns a railroad spur;
- (3) an independent railroad contractor; or
- (4) a person or business with a letter of authorization from a special agent of a railroad company class 1 or shortline. An entity removing or authorizing the removal of railroad track materials from private property must obtain a letter of authorization from the railroad company servicing the property.

(C) Payment for railroad track materials only must be made to the railroad company or the company's principals, the business that owns the railroad spur or the businesses' principals, the independent railroad contractor or the contractor's principals, or the person or business authorized by the railroad company or the businesses' principals.

(D) A person who violates this section:

- (1) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred and fifty dollars, or imprisoned not more than one year, or both;
- (2) 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
- (3) 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."

### **Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

[http://www.scstatehouse.gov/sess120\\_2013-2014/bills/560.htm](http://www.scstatehouse.gov/sess120_2013-2014/bills/560.htm)

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(A190, R214, S561)

**AN ACT TO AMEND SECTION 16-17-680, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PURCHASING, SELLING, AND TRANSPORTING OF NONFERROUS METALS, SO AS TO DEFINE THE TERM "COIL"; TO PROVIDE THAT A SECONDARY METALS RECYCLER MUST NOT PURCHASE OR OTHERWISE ACQUIRE A COIL AND PROVIDE A PENALTY FOR PRESENTMENT OF A FALSIFIED BILL OF SALE; TO RESTRICT A SECONDARY METALS RECYCLER FROM ENTERING INTO CASH TRANSACTIONS IN PAYMENT FOR THE PURCHASE OF COPPER, CATALYTIC CONVERTERS, OR BEER KEGS WHICH TOTAL TWENTY-FIVE DOLLARS OR MORE AND PROHIBIT A SECONDARY METALS RECYCLER FROM ENTERING INTO MORE THAN ONE CASH TRANSACTION PER DAY PER SELLER FOR THESE PURCHASES; AND TO CLARIFY SELLERS FOR WHOM THE PROVISIONS OF THE SECTION DO NOT APPLY UNDER CERTAIN CIRCUMSTANCES.**

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

**Nonferrous metals, definition of "coil"**

SECTION 1. Section 16-17-680(A) of the 1976 Code, as last amended by Act 242 of 2012, is further amended to read:

"(A) For purposes of this section:

- (1) 'Coil' means a copper, aluminum, or aluminum-copper condensing coil or evaporation coil. The term includes, but is not limited to, coil from a commercial or residential heating or air-conditioning system. The term does not include coil from a window air-conditioning system, if the coil is contained within the system, or coil from an automobile condenser.
- (2) '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.
- (3) '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.
- (4) '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."

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### **Nonferrous metals, coils, falsified bill of sale, penalty**

SECTION 2. Section 16-17-680(I) of the 1976 Code, as last amended by Act 242 of 2012, is further amended to read:

"(I) A secondary metals recycler shall not purchase or otherwise acquire:

- (1) an iron or steel manhole cover;
- (2) an iron or steel drainage grate; or
- (3) a coil, unless the seller is an exempted entity pursuant to subsection (J)(1)(e) or the seller presents a bill of sale from a company licensed pursuant to Chapter 11, Title 40 indicating that the seller acquired the coil as the result of a unit replacement or repair. The bill of sale is sufficient proof of ownership and serves the same purpose as a permit to transport and sell nonferrous metals. A person who presents a falsified bill of sale is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more three years, or both."

### **Nonferrous metals, cash transactions restricted**

SECTION 3. Section 16-17-680(D)(4) of the 1976 Code, as last amended by Act 242 of 2012, is further amended to read:

"(4) A secondary metals recycler shall not enter into a cash transaction in payment for the purchase of copper, catalytic converters, or beer kegs, which totals twenty-five dollars or more. Payment for the purchase of copper, catalytic converters, or beer kegs, which totals twenty-five dollars or more 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. A secondary metals recycler shall not enter into more than one cash transaction per day per seller in payment for the purchase of copper, catalytic converters, or beer kegs."

### **Nonferrous metals, exceptions**

SECTION 4. Section 16-17-680(J) of the 1976 Code, as last amended by Act 242 of 2012, is further amended to read:

"(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;

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(e) a seller who is 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 real estate broker or property manager licensed pursuant to Chapter 57, 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) a seller that is an organization, a corporation, or an association registered with the State as a charitable organization or a 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)."

#### **Time effective**

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

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