

H*3660 (Rat #0102, Act #0068 of 2011) General Bill, By Ott, Bales, McLeod, Brantley, Battle, Whipper, G.A. Brown, Parker, Anderson, J.M. Neal, Hodges, Bowers, Hosey, Alexander, Branham, Funderburk, Harrison, King, Dillard, Butler Garrick and Jefferson

Similar(S 732, H 4129)

AN ACT TO AMEND SECTION 16-11-523, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA,

1976, RELATING TO OBTAINING NONFERROUS METALS UNLAWFULLY, SO AS TO REVISE THE

PENALTIES FOR VIOLATIONS OF THIS PROVISION; TO AMEND SECTION 16-17-680, AS AMENDED, RELATING TO THE PURCHASE OF NONFERROUS METALS, PROCEDURES AND REQUIREMENTS FOR PURCHASE OF NONFERROUS METALS, AND EXCEPTIONS, SO AS TO PROVIDE DEFINITIONS FOR CERTAIN NEW AND DELETE CERTAIN EXISTING TERMS, TO PROVIDE THAT A SECONDARY METALS RECYCLER, SHALL OBTAIN A PERMIT TO PURCHASE NONFERROUS METALS FROM THE SHERIFF OF THE COUNTY IN WHICH A SECONDARY METALS RECYCLER'S FIXED SITE IS LOCATED, TO PROVIDE THAT CERTAIN PERSONS WHO WANT TO

TRANSPORT OR SELL NONFERROUS METALS TO A SECONDARY METALS RECYCLER SHALL OBTAIN A PERMIT TO TRANSPORT AND SELL NONFERROUS METALS FROM THE SHERIFF OF THE COUNTY IN WHICH THE PERSON RESIDES OR IS LOCATED, TO PROVIDE THAT IT IS UNLAWFUL TO OBTAIN A PERMIT FOR THE PURPOSE OF TRANSPORTING OR SELLING STOLEN

NONFERROUS METALS AND TO PROVIDE A PENALTY, TO REVISE THE PROVISION THAT PROVIDES THAT IT IS UNLAWFUL TO PURCHASE NONFERROUS METALS FROM A PERSON WHO IS NOT A HOLDER OF A RETAIL LICENSE BY PROVIDING THAT THIS PROVISION APPLIES TO THE PURCHASE OF NONFERROUS METALS FOR THE PURPOSE OF RECYCLING THEM FROM

A

SELLER WHO IS NOT A HOLDER OF A RESALE LICENSE, AN AUTHORIZED WHOLESALER, CERTAIN CONTRACTOR, OR CERTAIN UTILITY, PLUMBING, ELECTRICAL, OR CLIMATE CONDITIONING SERVICE PROVIDER UNDER CERTAIN CIRCUMSTANCES, TO REVISE THE PROVISION THAT REQUIRES A SECONDARY METALS RECYCLER TO MAINTAIN A RECORD OF PERSONS WHO HE PURCHASES NONFERROUS METALS FROM, TO PROVIDE THAT A SECONDARY METALS RECYCLER SHALL PURCHASE COPPER, CATALYTIC CONVERTERS, AND BEER KEGS BY

CHECK, TO PROVIDE THAT A SECONDARY METALS RECYCLER SHALL DISPLAY PROMINENTLY A

SIGN AT HIS FIXED SITE THAT PROVIDES THE CONDITIONS THAT MUST BE MET BY A SELLER BEFORE HE MAY PURCHASE NONFERROUS METALS FROM THE SELLER, TO PROVIDE NEW AND DELETE CERTAIN PRIOR PENALTIES FOR VIOLATIONS OF PROVISIONS OF THIS SECTION, TO PROVIDE THAT THIS SECTION PREEMPTS LOCAL ORDINANCES AND REGULATIONS GOVERNING THE TRANSPORTATION OF CERTAIN NONFERROUS METALS, AND DELETE THE PROVISION THAT PROVIDES THAT THIS SECTION SHALL NOT PREEMPT THE ABILITY OF A POLITICAL SUBDIVISION TO ENACT ORDINANCES OR REGULATIONS PERTAINING TO ZONING OF BUSINESS LICENSE FEES; AND TO REPEAL SECTION 16-17-685

RELATING TO THE UNLAWFUL TRANSPORTATION OF NONFERROUS METALS. - ratified title

02/10/11	House	Introduced and read first time
02/10/11	House	Referred to Committee on Agriculture, Natural Resources and Environmental Affairs
02/10/11	House	Member(s) request name added as sponsor: Dillard, Butler Garrick
02/10/11	House	Recalled from Committee on Agriculture, Natural Resources and Environmental Affairs

(House Journal-page 36)

02/10/11 House Referred to Committee on Judiciary
(House Journal-page 36)

02/23/11 House Member(s) request name removed as sponsor: Gilliard

04/27/11 House Recalled from Committee on Judiciary
(House Journal-page 23)

04/28/11 Scrivener's error corrected

05/04/11 House Member(s) request name added as sponsor: Jefferson

05/04/11 House Amended (House Journal-page 22)

05/04/11 House Requests for debate-Rep(s). Brannon, Pitts,
Daning, and Corbin (House Journal-page 22)

05/04/11 House Read second time (House Journal-page 22)

05/04/11 House Roll call Yeas-93 Nays-6 (House Journal-page 22)

05/05/11 House Read third time and sent to Senate
(House Journal-page 13)

05/05/11 Scrivener's error corrected

05/11/11 Senate Introduced, read first time, placed on calendar
without reference (Senate Journal-page 14)

05/31/11 Senate Read second time (Senate Journal-page 61)

05/31/11 Senate Roll call Ayes-36 Nays-3 (Senate Journal-page 61)

06/01/11 Senate Amended (Senate Journal-page 24)

06/01/11 Senate Read third time and returned to House with
amendments (Senate Journal-page 24)

06/01/11 Senate Roll call Ayes-38 Nays-2 (Senate Journal-page 24)

06/02/11 House Senate amendment amended (House Journal-page 11)

06/02/11 House Roll call Yeas-79 Nays-34 (House Journal-page 11)

06/02/11 House Returned to Senate with amendments
(House Journal-page 11)

06/15/11 Senate Concurred in House amendment and enrolled
(Senate Journal-page 239)

06/15/11 Senate Roll call Ayes-39 Nays-1 (Senate Journal-page 239)

06/16/11 Ratified R 102

06/17/11 Signed By Governor

06/22/11 Effective date 08/17/11

06/27/11 Act No. 68

VERSIONS OF THIS BILL

[2/10/2011](#)
[4/27/2011](#)
[4/28/2011](#)
[5/4/2011](#)
[5/5/2011](#)
[5/11/2011](#)
[6/1/2011](#)
[6/2/2011](#)

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(A68, R102, H3660)

AN ACT TO AMEND SECTION 16-11-523, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO OBTAINING NONFERROUS METALS UNLAWFULLY, SO AS TO REVISE THE PENALTIES FOR VIOLATIONS OF THIS PROVISION; TO AMEND SECTION 16-17-680, AS AMENDED, RELATING TO THE PURCHASE OF NONFERROUS METALS, PROCEDURES AND REQUIREMENTS FOR PURCHASE OF NONFERROUS METALS, AND EXCEPTIONS, SO AS TO PROVIDE DEFINITIONS FOR CERTAIN NEW AND DELETE CERTAIN EXISTING TERMS, TO PROVIDE THAT A SECONDARY METALS RECYCLER, SHALL OBTAIN A PERMIT TO PURCHASE NONFERROUS METALS FROM THE SHERIFF OF THE COUNTY IN WHICH A SECONDARY METALS RECYCLER'S FIXED SITE IS LOCATED, TO PROVIDE THAT CERTAIN PERSONS WHO WANT TO TRANSPORT OR SELL NONFERROUS METALS TO A SECONDARY METALS RECYCLER SHALL OBTAIN A PERMIT TO TRANSPORT AND SELL NONFERROUS METALS FROM THE SHERIFF OF THE COUNTY IN WHICH THE PERSON RESIDES OR IS LOCATED, TO PROVIDE THAT IT IS UNLAWFUL TO OBTAIN A PERMIT FOR THE PURPOSE OF TRANSPORTING OR SELLING STOLEN NONFERROUS METALS AND TO PROVIDE A PENALTY, TO REVISE THE PROVISION THAT PROVIDES THAT IT IS UNLAWFUL TO PURCHASE NONFERROUS METALS FROM A PERSON WHO IS NOT A HOLDER OF A RETAIL LICENSE BY PROVIDING THAT THIS PROVISION APPLIES TO THE PURCHASE OF NONFERROUS METALS FOR THE PURPOSE OF RECYCLING THEM FROM A SELLER WHO IS NOT A HOLDER OF A RESALE LICENSE, AN AUTHORIZED WHOLESALER, CERTAIN CONTRACTOR, OR CERTAIN UTILITY, PLUMBING, ELECTRICAL, OR CLIMATE CONDITIONING SERVICE PROVIDER UNDER CERTAIN CIRCUMSTANCES, TO REVISE THE PROVISION THAT REQUIRES A SECONDARY METALS RECYCLER TO MAINTAIN A RECORD OF PERSONS WHO HE PURCHASES NONFERROUS METALS FROM, TO PROVIDE THAT A SECONDARY METALS RECYCLER SHALL PURCHASE COPPER, CATALYTIC CONVERTERS, AND BEER KEGS BY CHECK, TO PROVIDE THAT A SECONDARY METALS RECYCLER SHALL DISPLAY PROMINENTLY A SIGN AT HIS FIXED SITE THAT PROVIDES THE CONDITIONS THAT MUST BE MET BY A SELLER BEFORE HE MAY PURCHASE NONFERROUS

METALS FROM THE SELLER, TO PROVIDE NEW AND DELETE CERTAIN PRIOR PENALTIES FOR VIOLATIONS OF PROVISIONS OF THIS SECTION, TO PROVIDE THAT THIS SECTION PREEMPTS LOCAL ORDINANCES AND REGULATIONS GOVERNING THE TRANSPORTATION OF CERTAIN NONFERROUS METALS, AND DELETE THE PROVISION THAT PROVIDES THAT THIS SECTION SHALL NOT PREEMPT THE ABILITY OF A POLITICAL SUBDIVISION TO ENACT ORDINANCES OR REGULATIONS PERTAINING TO ZONING OF BUSINESS LICENSE FEES; AND TO REPEAL SECTION 16-17-685 RELATING TO THE UNLAWFUL TRANSPORTATION OF NONFERROUS METALS.

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

Unlawfully obtaining nonferrous metals

SECTION 1. Section 16-11-523 of the 1976 Code, as last amended by Act 273 of 2010, 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 copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum, a product that is a mixture of aluminum and copper, catalytic converters, 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)(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."

Purchase, sale, and transportation of nonferrous metals

SECTION 2. Section 16-17-680 of the 1976 Code, as last amended by Act 26 of 2009, is further amended to read:

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

(1) 'Fixed site' means any 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 copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum, a product that is a mixture of aluminum and copper, catalytic converters, and stainless steel beer kegs or containers.

(3) 'Secondary metals recycler' means any person who is engaged 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.

(4) 'Vehicle used in the ordinary course of business for the purpose of transporting nonferrous metals' includes, but is not limited to, vehicles used by gas, electric, communications, water, plumbing, electrical, and climate conditioning service providers, and their employees, agents, and contractors, in the course of providing these services.

(B) A secondary metals recycler shall obtain a permit to purchase nonferrous metals from the sheriff of the county in which each of the secondary metals recycler's fixed sites are located. The sheriff shall issue the permit to the secondary metals recycler if the secondary metals recycler:

(1) has a fixed site located in the sheriff's county; and

(2) declares on a form provided by the sheriff that the secondary metals recycler is informed of and will comply with the provisions of this section.

The sheriff may charge and retain a two hundred dollar fee for the permit. The sheriff shall keep a record of all permits issued pursuant to this subsection containing, at a minimum, the date of issuance, and the name and address of the permit holder. The permit is valid for twenty-four months.

(C)(1) A person or entity other than a holder of a retail license, an authorized wholesaler, a contractor licensed pursuant to Article 1, Chapter 11, Title 40, or a gas, electric, communications, water, plumbing, electrical, or climate conditioning service provider, who wants to transport or sell nonferrous metals to a secondary metals recycler shall obtain a permit to transport and sell nonferrous metals from the sheriff of the county in which

the person resides or the entity is located. If the person is not a resident of or the entity is not located in South Carolina, the person or entity shall obtain a permit to transport and sell nonferrous metals from the sheriff of the county in which the secondary metals recycler purchasing the nonferrous metals is located. The sheriff shall issue the permit to the person or entity if the:

(a) person resides or the entity is located in the sheriff's county, or, if the person is not a resident of or the entity is not located in South Carolina, secondary metals recycler purchasing the nonferrous metals is located in the sheriff's county; and

(b) person or entity declares on a form provided by the sheriff that the person or entity is informed of and will comply with the provisions of this section.

The sheriff may not charge a fee for the permit. The sheriff shall keep a record of all permits issued pursuant to this subsection containing, at a minimum, the date of issuance, the name and address of the permit holder, a photocopy of the permit holder's identification, the license plate number of the permit holder's motor vehicle, and the permit holder's photograph. The permit is valid for twelve months. If a person or entity only wants to sell or transport nonferrous metals a maximum of two times in a twelve month period, the person or entity can obtain a forty-eight hour permit from the applicable sheriff's office pursuant to this subsection, except that the person only needs to call the sheriff's office, provide the required information, and obtain a permit number. A person or entity only may request such a permit two times in a twelve month period.

(2)(a) It is unlawful for a person 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.

(D)(1) It is unlawful to purchase nonferrous metals in any amount for the purpose of recycling the nonferrous metals from a seller who is not a holder of a retail license, an authorized wholesaler, a contractor licensed pursuant to Article 1, Chapter 11, Title 40, or a gas, electric, communications, water, plumbing, electrical, or climate conditioning service provider, 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 shall maintain a record containing, at a minimum, the date of purchase, 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, the seller's photograph, weight or length, and size or other description of the nonferrous metals purchased, amount paid for it, 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. 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 two years from the date of purchase.

(2) A secondary metals recycler shall purchase copper, catalytic converters, and beer kegs by check alone.

(3) 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 OF THE SOUTH CAROLINA CODE OF LAWS, 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 OF THE SOUTH CAROLINA CODE OF LAWS, 1976.'

(4) 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.

(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 is a holder of a retail license, an authorized wholesaler, a contractor licensed pursuant to Article 1, Chapter 11, Title 40, or a gas, electric, communications, water, plumbing, electrical, or climate conditioning service provider, or 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.

(2)(a) It is unlawful to purchase 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.

(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.

(G)(1) It is unlawful to transport in a vehicle or have in a person's possession in a vehicle on the highways of this State nonferrous metals of an aggregate weight of more than ten pounds.

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

(a) the vehicle is a vehicle used in the ordinary course of business for the purpose of transporting nonferrous metals;

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

(c) 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 subitem (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 subitem (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 must be fined in the discretion of the court or imprisoned not more than ten years, or both.

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

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

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

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

(4) valid military identification card.

(I) The provisions of this section do not apply to the purchase or sale of aluminum cans.

(J) 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."

Repeal

SECTION 3. Section 16-17-685 of the 1976 Code is repealed.

Savings clause

SECTION 4. 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.

Time effective

SECTION 5. This act takes effect sixty days after approval by the Governor.

Ratified the 16th day of June, 2011.

Approved the 17th day of June, 2011.