

HOUSE BILL 199, Metal Theft Prevention Act of 2012, moves the pawnbrokers and cash converter statutes from Chapter 91A to Chapter 66 and includes them in a new Article 45, Parts 1 and 2. The bill then adds a new Part 3 to Article 45 of Chapter 66 of the General Statutes which regulates sales and purchases of metal.

This Part 3 requires a person who purchases both ferrous and nonferrous metals (other than precious metals which are regulated by Part 2) to obtain a permit from the sheriff authorizing the person to engage in the business of a secondary metals recycler and to maintain records of purchases that are available for inspection by all law enforcement officers. The Attorney General is to develop an application form and a permit form and the Sheriff may not charge a fee. A permit is valid for 12 months and shall be valid only for fixed sites in the county of issuance and a permit must be obtained for each fixed site. The new law does not apply to:

- (1) Purchases of regulated metals property from a manufacturing, industrial, government, or other commercial vendor that generates or sells regulated metals property in the ordinary course of its business; and
- (2) Purchases of regulated metals property that involve only beverage containers, except that the hold orders and requirements listed below do apply.

Nonferrous metals are 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, and stainless steel beer kegs or containers, but not precious metals, G.S. § 66-415(4). The purchaser must obtain identifying information, including a photocopy of an unexpired form of government identification from the seller. If the item is a catalytic converter that is not attached to a vehicle or is a central air conditioner evaporator coil or condenser, the index fingerprint of the seller must also be obtained. These records must be made available to law enforcement officers and law enforcement officers may require the purchaser to send electronic copies to them. The records must be retained by the purchaser for two years.

A law enforcement officer who has reasonable suspicion that an item has been stolen may issue a written hold notice to a purchaser which requires the purchaser to hold the item for 15 days. This hold notice can be extended for an additional 30 days. In addition, any secondary metals recycler owner convicted of a felonious violation of this new Article 45 or G.S. § 14-71 (receiving stolen goods), § 14-71.1 (possession of stolen goods), or § 14-72 (larceny) is required to hold and retain all nonferrous metals for seven (7) days from the date of purchase before selling, dismantling, crushing, defacing, or in any manner altering or disposing of the regulated metals property.

A secondary metals recycler may not:

- (1) operate any business that cashes checks at a fixed site at which the secondary metals recycler purchases regulated metals property;

- (2) purchase nonferrous metals for the purpose of recycling the nonferrous metals, unless the nonferrous metals purchaser possesses a valid permit;
- (3) purchase any central air conditioner evaporator coils or condensers, or catalytic converters that are not attached to a vehicle, except that a secondary metals recycler may purchase these items from a company, contractor, or individual that is in the business of installing, replacing, maintaining, or removing these items; or
- (4) purchase any regulated metals property that the secondary metals recycler knows or reasonably should know to be stolen. G.S. § 66-419(a).

The new law also makes it a crime for a person to transport or possess on highways of this State an amount of copper weighing in the aggregate more than 25 pounds, unless at least one of the following is true:

- (1) The vehicle is used in the ordinary course of business for the purpose of transporting nonferrous metals. This term includes 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;
- (2) The person transporting or possessing the copper possesses, and presents when requested, a valid bill of sale for the copper; or
- (3) A law enforcement officer determines that the copper is not stolen and is in the rightful possession of the person. G.S. § 66-419(b).

The new law also lists items that may not be purchased, including metal with a business name on it; street signs; traffic lights; beer kegs; historical markers and other metals that obviously should belong to a business or government. See G.S. § 66-419(c).

Purchases of metal for cash are limited to one hundred dollars (\$100.00) per transaction. Any purchase in excess of this amount must be by check or money order. A purchaser shall not make more than one cash purchase per day from any individual, business, corporation or partnership.

A violation of this new law is a Class 1 misdemeanor for the first offense and a Class I felony for a second or subsequent offense. G.S. § 66-11.2(a), which allows for forfeiture of vehicles that are used to violate the regulated metals law, is recodified as G.S. § 66-426 and applies to violations of the new law.

A new G.S. § 14-159.4, was enacted that makes it a crime to cut, mutilate, deface, or otherwise injure property to obtain nonferrous metals. If the direct injury is to property, and 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 one thousand dollars (\$1,000), a violation is a Class 1 misdemeanor. If the applicable amount is one thousand dollars (\$1,000) or more, but less than ten thousand dollars (\$10,000), a violation is

a Class H felony. If the applicable amount is ten thousand dollars (\$10,000) or more, a violation shall be deemed an aggravated offense and is a Class F felony. If as a result of the crime a person suffers serious injury, it is a Class A1 misdemeanor. If the injury is serious bodily injury, punishment is a Class F felony. When a person is killed, the punishment is a Class D felony. If communications or electrical services are disrupted or ten (10) or more people suffer loss of communication or electrical service, the punishment is a Class 1 misdemeanor. In addition, the property owner is not civilly liable to a person who is injured while committing or attempting to commit a violation of this new law. **This bill was supported by the North Carolina Sheriffs' Association.**

Effective: October 1, 2012