

PURCHASE OF NONFERROUS METAL BY SECONDARY METALS RECYCLER. G.S. 66-11(d)(4).  
MISDEMEANOR.<sup>1</sup>

The defendant has been charged with purchasing nonferrous metal without providing proper payment.

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that the defendant is a secondary metals recycler.<sup>2</sup>

Second, that the defendant purchased nonferrous metal.<sup>3</sup> Nonferrous metal is metal that does not contain iron.

Third, that the defendant paid consideration greater than one hundred dollars (\$100.00)

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1. The penalty is higher for a second or subsequent violation.

2. "Secondary metals recycler" means any person, firm, or corporation in the State:

- a. That, from a fixed location or otherwise, is engaged in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; or
- b. That has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, by methods including, but not limited to, the processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content of the metals, but not including the exclusive use of hand tools.

3. This does not apply to:

- a) Any regulated metal marked with the initials or other identification of a telephone, cable, electric, water, or other public utility, or any brewer.
- b) Any utility access cover.
- c) Any street light pole or fixture.
- d) Any road or bridge guard rail.
- e) Any highway or street sign.
- f) Any water meter cover.
- g) Any metal beer keg, including any made of stainless steel that is clearly marked as being the property of the beer manufacturer.
- h) Any traffic directional or control sign.
- i) Any traffic light signal.
- j) Any regulated metal marked with the name of a government entity.
- k) Any property owned by a railroad and marked and otherwise identified as such.
- l) Any historical marker or any grave marker or burial vase.

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per transaction.

And Fourth, that the defendant failed to pay for these metals by  [check]  [money order]  [using a cash card system that captured the photograph of the person selling these metals and maintaining the photograph for 90 days].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant was a secondary metals recycler, the defendant purchased nonferrous metal, the defendant paid consideration greater than one hundred dollars (\$100.00) per transaction, and the defendant failed to pay for these metals by  [check]  [money order]  [using a cash card system that captured the photograph of the person selling these metals and maintaining the photograph for 90 days], it would be your duty to return a verdict of guilty. If you do not so find or if you have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.