

FAILURE OF SECONDARY METALS RECYCLER TO ISSUE RECEIPT FOR PURCHASE OF REGULATED METALS PROPERTY. G.S. 66-11(A1). FELONY. MISDEMEANOR.

NOTE WELL: This instruction applies to offenses occurring on or after October 1, 2009.

NOTE WELL: See G.S. 15A-928 for provisions regarding indictment, bifurcated trial, verdict, and judgment.

The defendant has been charged with failure to issue a receipt for the purchase of regulated metals property.

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

First, that the defendant is a secondary metals recycler.¹

Second, that the defendant purchased regulated metals property. Regulated metals property means all ferrous and nonferrous metals.

(And) Third, that the defendant failed to [issue a receipt signed by the person delivering the materials] [be able to provide documentation regarding the employee who completed the transaction].

NOTE WELL: Use the following element only if the defendant has a prior conviction or had pleaded guilty to a violation of G.S. 66-11.

¹ "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.

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((And) Fourth, that on (*name date*) the defendant, in (*name court*) [was convicted of] [pled guilty to] (*name violation*) that was committed on (*name date*).)

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 regulated metals property, and the defendant failed to [issue a receipt signed by the person delivering the materials] [be able to provide documentation regarding the employee who completed the transaction], (and the defendant had a [prior conviction] [pled guilty to] (*name violation*) that was committed on (*name date*)), it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, you will return a verdict of not guilty.