

PURCHASE OF PROHIBITED MATERIAL BY SECONDARY METALS RECYCLER.
G.S. 66-11(D)(5). FELONY. MISDEMEANOR.

NOTE WELL: This instruction is for 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 purchasing prohibited material by a secondary metals recycler.

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

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

(And) Second, that the defendant purchased

- a) [Regulated metal marked with [the initials] [other identification] of [a telephone] [cable] [electric] [water] [other public utility] [brewer]
- b) [A utility access cover]
- c) [A street light [pole] [fixture]]
- d) [A [road] [bridge] guard rail]
- e) [A [highway] [street] sign]
- f) [A water meter cover]

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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- g) [A metal beer keg, including any made of stainless steel that is clearly marked as being the property of the beer manufacturer]
- h) [A traffic [directional] [control] sign]
- i) [A traffic light signal]
- j) [Regulated metal marked with the name of a government entity]
- k) [Property owned by a railroad and marked and otherwise identified as such]
- l) [A [historical marker] [grave marker] [burial vase]].

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

*((And) Third, 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 recycle, (and) the defendant purchased

- a) [Regulated metal marked with [the initials] [other identification] of [a telephone] [cable] [electric] [water] [other public utility] [brewer]
- b) [A utility access cover]
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k) [Property owned by a railroad and marked and otherwise identified as such]

l) [A [historical marker] [grave marker] [burial vase]], (and that on (*name date*) the defendant, in (*name court*) [was convicted of] [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 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.

