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SENATE BILL NO. 491

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 3, 2010)

(Patron Prior to Substitute—Senator Hurt)

A BILL to amend and reenact §§ 59.1-117, 59.1-120, 59.1-121, 59.1-124, and 59.1-136.1 of the Code of Virginia, relating to the sale of certain building materials; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-117, 59.1-120, 59.1-121, 59.1-124, and 59.1-136.1 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-117. Permit required for trading in secondhand building fixtures.

Except as otherwise provided in this chapter, no person, firm or corporation shall offer for sale or sell any secondhand heating or plumbing fixtures or supplies, electric fixtures or wiring, gas fixtures or appliances, water faucets, pipes, locks, bathtubs, gutters, downspouts, or other secondhand fixtures of whatever kind or description pertaining to a building, without first obtaining a permit for the sale of the same from the chief of police of the city or town or the sheriff of the county in which such property is offered for sale.

§ 59.1-120. Recordkeeping requirements.

A. At the time of purchasing an article mentioned in § 59.1-117, the dealer shall require the seller of the article to provide:

1. A driver's license or other government-issued current photographic identification including his full name, current address, date of birth, and social security or other recognized identification number; and

2. Documentation, such as a bill of sale, receipt, letter of authorization or similar evidence, establishing that the person lawfully possesses any article being sold.

B. Every dealer shall keep at his place of business a permanently bound book or books ledger in which shall be legibly written with ink in English at the time of each transaction in the course of his business an accurate account of each purchase and/or sale of every article mentioned in § 59.1-117 sold or purchased by him. Such account shall set forth an accurate description of the goods, articles or things purchased or sold and the name, residence and description of and other information prescribed in subdivision A 1 regarding the person selling, delivering, or purchasing the same, the time and date of the transaction, the license number of the automobile or vehicle in which the goods, article or things were delivered or received, and the permit number, if the goods offered can only be sold under a permit issued by the chief of police of the city or town or the sheriff of the county in which such goods were sold. The description of the person required by this section shall consist of the color, sex, approximate height, and age, any distinguishing feature of such person, and the thumb prints of both hands of such person on the same page on which the entry is made. Records required by this subsection shall be maintained by the dealer at its normal place of business or at another readily accessible and secure location for at least five years.

§ 59.1-121. Reports to be made to chief of police or sheriff.

A. Every junk dealer and dealers in secondhand personal property, including persons regularly engaged in the business of collecting secondhand materials for resale to junk dealers, and shall every day except Sunday before the hour of noon deliver to the chief of police of the city or town on blank forms to be prescribed and furnished by the chief of police of such city or town a legible and accurate description of every article or thing of the kind mentioned in § 59.1-117 received by him during the business day next preceding, the permit number under which the goods were received by the dealer, the license number of any automobile or vehicle in which the goods or things were delivered, together with a description of the person selling or delivering the same, including the color, sex, approximate height and age and any distinguishing features of such person, or a photograph of such person, together with a reference to the volume and number of the page where the original entry required by § 59.1-120 is made. Where goods of the kind mentioned in § 59.1-117 are purchased or received in a county, the same information required by this section shall be furnished to the sheriff of the county in which such goods were bought or received not later than midday of the Saturday following the purchase or receipt of such goods, but the sheriff shall not be required to prepare or furnish blank forms for such reports for use in the county, and the dealer may submit any report which fairly conforms to the requirements of this section.

B. Notwithstanding any provision of this chapter to the contrary, a dealer who purchases copper gutters, downspouts, or similar copper materials shall hold the article for not less than 15 days following the date the notice required pursuant to subsection A is given to the chief of police or sheriff.

§ 59.1-124. Penalty for violation.

60 Any ~~violation of person who violates~~ this article shall be a *guilty of a Class 3* misdemeanor. ~~For the~~
61 ~~first offense the penalty shall be a fine of not less than \$50 nor more than \$100, and for any A person~~
62 ~~convicted of a second or subsequent offense, a fine of not less than \$100 nor more than \$500 and~~
63 ~~confinement in jail for a period not exceeding twelve months under this article is guilty of a Class 1~~
64 ~~misdemeanor.~~

65 § 59.1-136.1. Definitions.

66 For the purpose of this article:

67 "Authorized scrap seller" means licensed plumbers, electricians, HVAC contractors, building and
68 construction contractors, demolition contractors, construction and demolition debris contractors, public
69 utilities, transportation companies, licensed peddlers and brokers, industrial and manufacturing
70 companies, marine, automobile, and aircraft salvage and wrecking companies, and government entities.

71 "Ferrous scrap" means any scrap metal consisting primarily of iron, steel, or both, but excluding any
72 scrap metal consisting primarily of stainless steel. Ferrous scrap includes large manufactured articles
73 such as automobile bodies that may contain other substances to be removed and sorted during normal
74 operations of scrap metal processors.

75 "Metal article" means any manufactured item, consisting of metal, that is usable for its originally
76 intended purpose without processing, repairs or alteration and that is not otherwise excluded by the
77 definitions in this section. Examples include, without limitation, manhole covers, railings, copper or
78 aluminum wire, copper pipe and tubing, bronze cemetery plaques, urns, and markers, plumbing fixtures,
79 gutters, downspouts, and cast-iron radiators.

80 "Nonferrous scrap" means any scrap metal consisting primarily of (i) stainless steel or (ii) any metal
81 other than iron or steel. Nonferrous scrap *includes copper gutters and downspouts* and does not include
82 aluminum beverage cans; postconsumer household items such as pots, pans, barbecue grills, and lawn
83 chairs; used ~~items such as wire flashing, gutters, and downspouts~~ removed during building renovation or
84 demolition; or small quantities of nonferrous metals contained in large manufactured articles, such as
85 automobile bodies and appliances.

86 "Proprietary article" means (i) any metal article stamped, engraved, stenciled, or otherwise marked so
87 as to identify it as being or having been the property of a governmental entity or public utility,
88 transportation, shipbuilding, ship repair, mining or manufacturing company; (ii) any hard drawn copper
89 electrical conductor, cable, or wire that is three-eighths of one inch or greater in diameter, stranded or
90 solid; (iii) any aluminum conductor, cable, or wire three quarters of one inch or greater in diameter,
91 stranded or solid; (iv) stainless steel beer kegs; or (v) any catalytic converter from a motor vehicle
92 exhaust system that has been detached from a motor vehicle.

93 "Scrap metal" means any manufactured item or article consisting of or containing metal; any metal
94 removed from or obtained by cutting, demolishing, or disassembling any building, structure,
95 manufactured item, or article; and any other metal that is no longer used for its original purpose and
96 that can be processed for reuse in mills, foundries, and other manufacturing facilities.

97 "Scrap metal processor" means a business entity in good standing authorized to conduct business in
98 the Commonwealth that regularly utilizes machinery and equipment at one or more established locations
99 in the normal course of business for processing and manufacturing scrap metal into prepared grades for
100 sale as raw material to mills, foundries and other manufacturing facilities.