

Ala. Code 1975, § 13A-8-37.1

Failing to Obtain Ownership Documentation

The Defendant is charged with failing to obtain ownership documentation.

A person commits the crime of failing to obtain ownership documentation if he/she is a secondary metals recycler and purchases the following property, unless a copy of verifiable documentation, in addition to the signed statement required, is provided to the secondary metals recycler that the seller is the owner of the property: **[Read as appropriate]**

- (1) Catalytic convertors that are not part of an entire motor vehicle;
- (2) Metal property of a telephone company, an electric company, a cable company, a water company, another utility, or a railroad marked or otherwise identified as such;
- (3) Copper wire that has been burned to remove the insulation, unless verifiable documentation is provided that the source of the copper wire was in a building destroyed by fire;
- (4) A copper, aluminum, or aluminum-copper condensing or evaporating coil, including its tubing or rods, from a heating or air conditioning unit, excluding scrap from window air conditioning units and automobile condenser coils, unless any one of the following criteria are satisfied:
 - (a) The condenser coils are being sold by a licensed contractor, HVAC contractor, plumber, or electrician and a current and valid license with number is provided at the time of sale and copied or scanned by the secondary metals recycler at the time of sale; **(OR)**
 - (b) The condenser coils are being sold by a person with verifiable documentation, such as a receipt or work order, indicating that the condenser coils are the result of a replacement of an air conditioner unit or condenser coils performed by a licenses contractor;
- (5) Utility access covers, manhole covers, or storm drain covers, unless the seller is a company that deals in the manufacture or sale of the aforementioned products;
- (6) Grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized or any other metal historic markers or monuments or the attached support or post to either, unless the seller is a company that deals in the manufacture or sale of the aforementioned property;

- (7) Any metal property that has been brightly painted or marked to deter theft of the property;
- (8) Ventilation fans or similar fans designed to supply fresh air to workers in confined spaces such as underground mines or other similar circumstances.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The Defendant was a secondary metals recycler;
- (2) The Defendant purchased the following property: **[Read as appropriate]**
 - (a) Catalytic convertors that are not part of an entire motor vehicle;
 - (b) Metal property of a telephone company, an electric company, a cable company, a water company, another utility, or a railroad marked or otherwise identified as such;
 - (c) Copper wire that has been burned to remove the insulation, unless verifiable documentation is provided that the source of the copper wire was in a building destroyed by fire;
 - (d) A copper, aluminum, or aluminum-copper condensing or evaporating coil, including its tubing or rods, from a heating or air conditioning unit, excluding scrap from window air conditioning units and automobile condenser coils, unless any one of the following criteria are satisfied:
 - i. The condenser coils are being sold by a licensed contractor, HVAC contractor, plumber, or electrician and a current and valid license with number is provided at the time of sale and copied or scanned by the secondary metals recycler at the time of sale;
(OR)
 - ii. The condenser coils are being sold by a person with verifiable documentation, such as a receipt or work order, indicating that the condenser coils are the result of a replacement of an air conditioner unit or condenser coils performed by a licenses contractor;
 - (e) Utility access covers, manhole covers, or storm drain covers, unless the seller is a company that deals in the manufacture or sale of the aforementioned products;

- (f) Grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized or any other metal historic markers or monuments or the attached support or post to either, unless the seller is a company that deals in the manufacture or sale of the aforementioned property;
 - (g) Any metal property that has been brightly painted or marked to deter theft of the property;
 - (h) Ventilation fans or similar fans designed to supply fresh air to workers in confined spaces such as underground mines or other similar circumstances;
- (3) The Defendant did so without being provided a copy of verifiable documentation that the seller was the owner of the property, in addition to the signed statement required; **(AND)**
- (4) The defendant acted **[Insert appropriate mens rea element - See Use Notes]**.

A *secondary metals recycler* is any person, whether licensed or not licensed, who is engaged, from a fixed location or otherwise, in the business of paying compensation for ferrous or nonferrous metals, whether or not engaged 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. **[Read as appropriate]:** The term does not include a pawnbroker licensed pursuant to Chapter 19A of Title 5, or a licensed automotive dismantler and parts recycler as defined in Section 40-12-410, unless the entities engage in the business of paying compensation for ferrous or nonferrous metals. [13A-8-30(9)]

Ferrous metals are metals containing significant quantities of iron or steel, excluding motor vehicles purchased in accordance with Section 32-8-87. **[Read as appropriate: Section 32-8-87]**. [13A-8-30(1)]

Nonferrous metals are metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum other than aluminum cans, bronze, lead, zinc, nickel, stainless steel, and alloys thereof, including stainless steel beer kegs. [13A-8-30(4)]

Metal property is either ferrous or nonferrous metals. [13A-8-30(3)]

A *person* is an individual, partnership, corporation, joint venture, trust, association, or any other legal entity. [13A-8-30(5)]

Verifiable documentation is written evidence of ownership which may be verified, including, but not limited to, receipts, bills of sale, titles, certificates of title, purchase agreements, shipping manifests, work orders, etc. [13A-8-30(10)]

A *signed statement* means a statement signed from the person receiving consideration in the purchase transaction stating he/she is the rightful owner of the metal property or is authorized to sell the property being sold. [13A-8-31(a)(6)]

If you find that the State has proved beyond a reasonable doubt each of the elements of the offense of failing to obtain ownership documentation, then you shall find the Defendant guilty of failing to obtain ownership documentation.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of failing to obtain ownership documentation, then you cannot find the defendant guilty of failing to obtain ownership documentation.

Use Notes

The statute does not state a specific mens rea element. Insert the appropriate mens rea element considering the indictment and the evidence before the court. There are few, if any, strict liability offenses in the Code. See Commentary for 13A-2-3 and 13A-2-4(b). There are four mens rea elements in the Alabama Code: intentionally, knowingly, recklessly and with criminal negligence. See 13A-2-2.

1. A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]
2. A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]
3. A person acts *recklessly* with respect to a result or to a circumstance when he/she is aware of and consciously disregards a substantial and unjustifiable risk that the risk will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. [13A-2-2(3)]
4. A person acts with *criminal negligence* with respect to a result or to a circumstance when he/she fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. A court or jury may consider statutes or ordinances

regulating the defendant's conduct as bearing upon the question of criminal negligence.

This article does not apply to purchases of metal property from certain persons.
[13A-8-35]

[Approved 3-23-15.]