

**Ala. Code 1975, § 13A-8-37**

**Possessing or Controlling Stolen Property**

The Defendant is charged with possessing or controlling stolen property.

A person commits the crime of possessing or controlling stolen property if he/she possesses or controls the following property, knowing it has been stolen or having reasonable grounds to believe it has been stolen, unless the property is possessed or controlled with intent to restore it to the owner: [Read as appropriate]

- (1) Metal property marked with the initials of an electrical company, a telephone company, a cable company, another public utility, a railroad, or a brewer;
- (2) 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;
- (3) Street light poles and fixtures, unless the seller is a company that deals in the manufacture or sale of the aforementioned products;
- (4) Road and bridge guard rails unless the seller is a company that deals in the manufacture or sale of the aforementioned products;
- (5) Highway or street signs, traffic light signals, and traffic directional and control signs unless the seller is a company that deals in the manufacture or sale of the aforementioned products;
- (6) Water meter covers unless the seller is a company that deals in the manufacture or sale of the aforementioned products;
- (7) Metal beer kegs including those made of stainless steel that are clearly marked as being the property of a beer manufacturer unless the seller is a company that deals in the manufacture or sale of the aforementioned products;
- (8) Metal property marked with the name of a government entity;
- (9) Unused and undamaged building construction or utility materials consisting of copper, pipe, tubing or wiring, aluminum wire, or historical markers;
- (10) Grave markers, vases, memorials, statues, plaques, or other bronze objects used at cemetery or other location where deceased persons are interred or memorialized, unless the seller is a company that deals in the manufacture or sale of the aforementioned property; (AND/OR)

- (11) 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 licensed contractor;

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

- (1) The Defendant possessed or controlled the following property: [Read as appropriate]
  - (a) Metal property marked with the initials of an electrical company, a telephone company, a cable company, another public utility, a railroad, or a brewer;
  - (b) 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;
  - (c) Street light poles and fixtures, unless the seller is a company that deals in the manufacture or sale of the aforementioned products;
  - (d) Road and bridge guard rails unless the seller is a company that deals in the manufacture or sale of the aforementioned products;
  - (e) Highway or street signs, traffic light signals, and traffic directional and control signs unless the seller is a company that deals in the manufacture or sale of the aforementioned products;
  - (f) Water meter covers unless the seller is a company that deals in the manufacture or sale of the aforementioned products;
  - (g) Metal beer kegs including those made of stainless steel that are clearly marked as being the property of a beer manufacturer unless the seller is a company that deals in the manufacture or sale of the aforementioned products;

- (h) Metal property marked with the name of a government entity;
  - (i) Unused and undamaged building construction or utility materials consisting of copper, pipe, tubing or wiring, aluminum wire, or historical markers;
  - (j) Grave markers, vases, memorials, statues, plaques, or other bronze objects used at cemetery or other location where deceased persons are interred or memorialized, unless the seller is a company that deals in the manufacture or sale of the aforementioned property; (AND/OR)
  - (k) 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 licensed contractor;
- (2) The Defendant knew that it had been stolen or had reasonable grounds to believe it had been stolen; (AND)
- (3) The Defendant did not possess or control it with intent to restore it to the owner.

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

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)]

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

A person acts knowingly with respect to conduct or to a circumstance when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

A person acts intentionally with respect to a result or to conduct when his/her purpose is to cause that result or engage in that conduct. [13A-2-2(1)]

If you find that the State has proved beyond a reasonable doubt each of the elements of the offense of possessing or controlling stolen property, then you shall find the Defendant guilty of possessing or controlling stolen property.

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 possessing or controlling stolen property, then you cannot find the defendant guilty of possessing or controlling stolen property.

#### **Use Notes**

Only property listed in (a)(2) and (a)(10) are punishable as felonies for the first offense; the rest are misdemeanors. [13A-8-37(b) & (c)]

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

[Approved 3-23-15.]