

Ala. Code 1975, § 13A-8-33(a)

Processing or Removing Metal Property Under Hold Notice
(15 Days)

The Defendant is charged with processing or removing metal property under a hold notice (15 days).

A person commits the crime of processing or removing metal property under a hold notice (15 days) if he/she is a secondary metals recycler and, upon receipt of a written hold notice from a law enforcement officer specifically identifying the item(s) of metal property believed to be have been stolen, intentionally processes or removes the item(s) of metal property identified in the notice, or any portion thereof, from the place of business of the secondary metal recycler for 15 calendar days after receipt of the notice by the secondary metals recycler, unless sooner released by a law enforcement officer.

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 received a written hold notice from a law enforcement officer specifically identifying the item(s) of metal property believed to be have been stolen;
- (3) The Defendant processed or removed the item(s) of metal property identified in the notice, or a portion thereof, from the place of business of the secondary metal recycler before 15 calendar days after receipt of the notice by the secondary metals recycler, and it was not sooner released by a law enforcement officer; **(AND)**
- (4) The defendant did so intentionally.

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)]

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

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

A *law enforcement officer* is a duly constituted and certified peace officer of the State of Alabama or of any county or municipality within the state. [13A-8-30(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 processing or removing metal property under a hold notice (15 days), then you shall find the Defendant guilty of processing or removing metal property under a hold notice (15 days).

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 processing or removing metal property under a hold notice (15 days), then you cannot find the defendant guilty of processing or removing metal property under a hold notice (15 days).

Use Notes

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

[Approved 3-23-15.]