

The State of South Carolina



Office of the Attorney General

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October 31, 1994

The Honorable Glenn G. Reese
Senator, District No. 11
117 Sun Valley Drive
Inman, South Carolina 29349

Dear Senator Reese:

Thank you for your letter of October 25, 1994, to Attorney General Medlock, which he has referred to the Opinion Section for response. You had described two scenarios whereby one or more individuals attempt to sell fifteen pounds of copper to a scrap metal dealer, the identification of the individual(s) being questionable. In each scenario you have asked whether it would be legal for the scrap metal dealer to purchase the copper.

As you are well aware, S.C. Code Ann. § 16-17-680 was amended in 1993. See Act No. 105, 1993 Acts and Joint Resolutions. The newly amended statute still requires the purchaser of copper (in excess of ten pounds) to obtain and verify the name and address of the seller. By an opinion of this Office dated December 29, 1992, this Office advised as to the older version of § 16-17-680:

Each situation where identification must be obtained by a purchaser would have to be considered on a case by case basis as to whether the proffered identification is adequate. This Office cannot state categorically what manner of establishing identification would be satisfactory in all instances to avoid a violation of Section 16-17-780. ... [T]he purchaser must not only "obtain" the name and address of the seller but he must also "verify" such. Therefore, steps additional to review of a driver's license or identification card may be necessary depending upon the circumstances.

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The advice previously given is still valid.

It is observed that § 16-17-680 is a penal statute, with various activities related to the purchase, transporting, or possession of various forms of copper. To ask whether a particular purchase would be "legal" is to effectively ask whether one would be criminally liable in such a situation. This Office must respectfully decline to undertake an opinion on such issues, as we do not provide advice or an opinion which would subsequently foreclose prosecution in an appropriate case. Even if we were to undertake an opinion, a change in even one or two facts could alter the conclusion as to legality or lack of legality. Thus, we cannot advise you as to the legality of the purchases you have described.

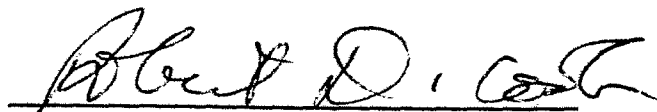
Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



Robert D. Cook
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