
By: Senator Della

Introduced and read first time: January 10, 1997

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Regulation of Scrap Metal Processors - Record Keeping**

3 FOR the purpose of imposing certain duties on scrap metal processors relating to record
4 keeping and release of stolen property; preempting and superseding certain
5 enactments by counties and municipal corporations; prohibiting acceptance or
6 purchase of certain materials under certain circumstances; defining certain terms;
7 providing a certain penalty; and generally relating to regulation of scrap metal
8 processors.

9 BY adding to

10 Article - Business Regulation
11 Section 20-101 through 20-108, inclusive, to be under the new title "Title 20. Scrap
12 Metal Processors"
13 Annotated Code of Maryland
14 (1992 Volume and 1996 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Business Regulation**

18 TITLE 20. SCRAP METAL PROCESSORS.

19 20-101.

20 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

21 (B) "EMPLOYEE" MEANS A PERSON EMPLOYED BY A SCRAP METAL
22 PROCESSOR WHO, AS PART OF THE PERSON'S EMPLOYMENT, BUYS, SELLS, OR
23 DIRECTLY SUPERVISES THE BUYING OR SELLING OF SCRAP METAL.

24 (C) "PRIMARY LAW ENFORCEMENT AGENCY" MEANS THE STATE POLICE, OR
25 A POLICE OR SHERIFF'S DEPARTMENT, AS DESIGNATED BY RESOLUTION OF THE
26 GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION.

27 (D) (1) "SCRAP METAL" MEANS A SECONDHAND OBJECT MADE WHOLLY OR
28 PARTLY OF NICKEL, STAINLESS STEEL, OR OTHER NONFERROUS METAL, INCLUDING
29 NONFERROUS METAL FROM:

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1 (I) MATERIALS AND EQUIPMENT COMMONLY USED IN
2 CONSTRUCTION, AGRICULTURAL OPERATIONS, AND ELECTRIC POWER
3 GENERATION; AND

4 (II) RAILROAD EQUIPMENT.

5 (2) "SCRAP MATERIAL" DOES NOT INCLUDE:

6 (I) SCRAP IRON;

7 (II) HOUSEHOLD-GENERATED WASTE; OR

8 (III) ALUMINUM BEVERAGE CONTAINERS.

9 (E) "SCRAP METAL PROCESSOR" MEANS A PERSON WHO, EITHER AS A
10 DEALER OR AS A BROKER FOR OTHERS, DOES BUSINESS BUYING, PROCESSING,
11 SELLING, OR SHIPPING SCRAP METAL FOR USE AS RAW MATERIAL BY A FOUNDRY,
12 SMELTER, REFINER, MILL, OR OTHER USER.

13 20-102.

14 THIS TITLE DOES NOT APPLY TO:

15 (1) A GOVERNMENT-OPERATED LANDFILL, DUMP, OR TRASH
16 DEPOSITORY;

17 (2) AN AUTOMOBILE DISMANTLING BUSINESS THAT DOES NOT BUY OR
18 SELL SCRAP METAL;

19 (3) A PERSON WHOSE BUSINESS IS SOLELY THE PURCHASE OF
20 ALUMINUM CANS OR OTHER CONTAINERS FOR RECYCLING PURPOSES;

21 (4) A DEMOLITION WASTE, REFUSE, RUBBISH, OR TRASH REMOVAL
22 BUSINESS THAT DOES NOT BUY OR SELL SCRAP METAL;

23 (5) A CONTRACTOR THAT SELLS TO A SCRAP METAL PROCESSOR ON A
24 REGULAR BASIS;

25 (6) INDUSTRIAL MATERIAL COLLECTED ON A CONTRACTUAL BASIS
26 FROM A MANUFACTURER OR DISTRIBUTOR BY A SCRAP METAL PROCESSOR; OR

27 (7) A TRANSACTION BETWEEN A SCRAP METAL PROCESSOR AND
28 ANOTHER SCRAP METAL PROCESSOR.

29 20-103.

30 (A) EACH SCRAP METAL PROCESSOR SHALL MAINTAIN WRITTEN RECORDS,
31 ON FORMS APPROVED BY THE PRIMARY LAW ENFORCEMENT AGENCY OF THE
32 JURISDICTION IN WHICH THE SCRAP METAL PROCESSOR'S PLACE OF BUSINESS IS
33 LOCATED, OF ALL BUSINESS TRANSACTIONS INVOLVING:

34 (1) ACQUISITIONS OF SCRAP METAL AT THE TIME THE TRANSACTIONS
35 ARE MADE; AND

36 (2) PAYMENT OF MONEY FOR GOODS RECEIVED.

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1 (B) A SEPARATE RECORD ENTRY SHALL BE MADE FOR EACH ITEM OR
2 MATCHING SET OF ITEMS INVOLVED IN A TRANSACTION.

3 (C) THE RECORDS SHALL INCLUDE:

4 (1) THE PLACE, TIME, AND DATE OF EACH TRANSACTION;

5 (2) IF THE TRANSACTION IS BY A SELLER'S AGENT, EMPLOYEE, OR
6 BROKER, THE NAME AND ADDRESS OF THE SELLER INVOLVED;

7 (3) THE SIGNATURE OF BOTH THE BUYER AND SELLER IN THE
8 TRANSACTION, OR THEIR AGENT, EMPLOYEE, OR BROKER;

9 (4) A DESCRIPTION OF THE SCRAP METAL THAT IS THE SUBJECT OF THE
10 TRANSACTION, INCLUDING:

11 (I) THE APPROXIMATE COMPOSITION OF THE ITEM;

12 (II) WHETHER THE ITEM APPEARS TO HAVE BEEN USED OR
13 ALTERED SINCE ITS MANUFACTURE, SUCH AS BY MELTING OR COVERING OR
14 DEFACING A SERIAL NUMBER OR IDENTIFYING FEATURE; AND

15 (III) THE ACTUAL AMOUNT PAID OR OTHER CONSIDERATION FOR
16 THE TRANSACTION; AND

17 (5) THE NAME, RESIDENCE ADDRESS, AND DATE OF BIRTH, DERIVED
18 FROM A PHOTOGRAPHIC IDENTIFICATION CARD, OF EACH PERSON FROM WHOM
19 SCRAP METAL IS ACQUIRED.

20 (D) THE RECORDS REQUIRED BY THIS SECTION SHALL BE RETAINED BY THE
21 SCRAP METAL PROCESSOR IN PERMANENT FORM FOR 6 MONTHS AFTER THE DATE
22 OF THE TRANSACTION.

23 (E) THE RECORDS REQUIRED BY THIS SECTION:

24 (1) SHALL BE KEPT CONFIDENTIAL;

25 (2) ARE NOT PUBLIC RECORDS;

26 (3) ARE NOT SUBJECT TO TITLE 10, SUBTITLE 6 OF THE STATE
27 GOVERNMENT ARTICLE; AND

28 (4) MAY BE DESTROYED AFTER 1 YEAR.

29 20-104.

30 IF A SCRAP METAL PROCESSOR REFUSES TO ALLOW ACCESS TO THE PREMISES
31 OR TO PRODUCE RECORDS OR ITEMS FOR INSPECTION, A LAW ENFORCEMENT
32 OFFICER SHALL OBTAIN A SEARCH WARRANT.

33 20-105.

34 (A) A SCRAP METAL PROCESSOR SHALL RELEASE TO THE APPROPRIATE LAW
35 ENFORCEMENT AGENCY IN THE COUNTY IN WHICH THE SCRAP METAL PROCESSOR'S

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1 PLACE OF BUSINESS IS LOCATED ANY ITEM OF PERSONAL PROPERTY THAT HAS
2 BEEN DETERMINED TO BE STOLEN.

3 (B) WHEN THE LAW ENFORCEMENT AGENCY NO LONGER HAS ANY
4 EVIDENTIARY NEED FOR THE ITEM TO REMAIN IN ITS POSSESSION, THE AGENCY
5 SHALL RELEASE THE ITEM TO THE POSSESSION OF THE ACTUAL OWNER.

6 (C) WHEN A LAWFUL OWNER RECOVERS STOLEN SCRAP METAL FROM A
7 SCRAP METAL PROCESSOR WHO HAS COMPLIED WITH THE PROVISIONS OF THIS
8 TITLE, AND THE PERSON WHO SOLD THE SCRAP METAL TO THE SCRAP METAL
9 PROCESSOR IS CONVICTED OF THEFT, OR THEFT BY RECEIVING STOLEN PROPERTY,
10 THE COURT SHALL ORDER THE DEFENDANT TO MAKE FULL RESTITUTION,
11 INCLUDING ATTORNEYS' FEES, COURT COSTS, AND OTHER EXPENSES, TO THE SCRAP
12 METAL PROCESSOR.

13 20-106.

14 A COUNTY OR MUNICIPAL CORPORATION MAY NOT ENACT ANY LOCAL LAW,
15 ORDINANCE, OR REGULATION REGULATING SCRAP METAL PROCESSORS, AND THIS
16 TITLE PREEMPTS AND SUPERSEDES ALL EXISTING LOCAL LAWS, ORDINANCES, OR
17 REGULATIONS REGULATING SCRAP METAL PROCESSORS.

18 20-107.

19 (A) (1) A SCRAP METAL PROCESSOR MAY NOT ACCEPT OR BUY ANY OBJECT
20 OR MATERIAL USED TO CONTROL TRAFFIC OR MAINTAIN PUBLIC SAFETY UNLESS:

21 (I) THE SELLER GIVES TO THE SCRAP METAL PROCESSOR A
22 LETTER FROM A GOVERNMENT AGENCY SPECIFICALLY AUTHORIZING THAT
23 SELLER OR SELLER'S AGENT TO DISPOSE OF THE PROPERTY IN QUESTION; OR

24 (II) THE GOVERNMENT AGENCY FILES WITH THE SCRAP METAL
25 PROCESSOR A LIST OF PERSONS AUTHORIZED TO MAKE A SALE FOR THAT
26 GOVERNMENT.

27 (2) PARAGRAPH (1) OF THIS SUBSECTION APPLIES TO PERSONS
28 PERFORMING CONTRACTUAL WORK FOR A GOVERNMENT AGENCY.

29 (B) A SCRAP METAL PROCESSOR MAY NOT ACCEPT OR BUY ANY
30 CONSTRUCTION EQUIPMENT UNLESS THE SELLER GIVES TO THE SCRAP METAL
31 PROCESSOR A LETTER FROM A CONSTRUCTION COMPANY SPECIFICALLY
32 AUTHORIZING THAT SELLER OR SELLER'S AGENT TO DISPOSE OF THE PROPERTY IN
33 QUESTION.

34 (C) (1) A SCRAP METAL PROCESSOR MAY NOT ACCEPT OR PURCHASE
35 SCRAP METAL FROM A MINOR.

36 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO THE
37 ACCEPTANCE OR PURCHASE OF ALUMINUM CANS.

38 20-108.

39 (A) A PERSON WHO WILLFULLY OR KNOWINGLY VIOLATES ANY PROVISION
40 OF THIS TITLE, AND EACH EMPLOYEE WHO PARTICIPATES IN A VIOLATION OR

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1 CONSENTS TO A VIOLATION, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
2 SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 30
3 DAYS OR BOTH.

4 (B) EACH SEPARATE VIOLATION OF THIS TITLE IS A SEPARATE OFFENSE, AS
5 IS EACH SEPARATE VIOLATION OF ANY PROVISION OF THIS TITLE.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 1997.