
By: Senator Della

Introduced and read first time: January 17, 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 that this Act supersedes certain other provisions of law; providing a
8 certain penalty; and generally relating to regulation of scrap metal processors.

9 BY adding to

10 Article - Business Regulation
11 Section 20-101 through 20-108, inclusive, to be under the new title "Title
12 20. Scrap 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; OR

4 (II) RAILROAD EQUIPMENT.

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

6 (I) SCRAP IRON OR STEEL;

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 (A) THIS TITLE SUPERSEDES OTHER PROVISIONS OF LAW RELATING TO THE
15 REGULATION OF SCRAP METAL, INCLUDING TITLE 17, SUBTITLE 10 OF THIS ARTICLE,
16 TO THE EXTENT OF ANY CONFLICT.

17 (B) THIS TITLE DOES NOT APPLY TO:

18 (1) A GOVERNMENT-OPERATED LANDFILL, DUMP, OR TRASH
19 DEPOSITORY;

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

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

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

26 (5) SCRAP METAL PURCHASED FROM A LICENSED CONTRACTOR;

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

29 (7) A TRANSACTION BETWEEN A SCRAP METAL PROCESSOR AND
30 ANOTHER SCRAP METAL PROCESSOR; OR

31 (8) SCRAP METAL PURCHASED FROM A:

32 (I) DEMOLITION CONTRACTOR;

33 (II) WASTE, REFUSE, RUBBISH, OR TRASH REMOVAL BUSINESS; OR

34 (III) LICENSED AUTOMOTIVE DISMANTLER OR RECYCLER.

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1 20-103.

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

6 (1) ACQUISITIONS OF SCRAP METAL AT THE TIME THE TRANSACTIONS
7 ARE MADE; AND

8 (2) PAYMENT OF MONEY FOR GOODS RECEIVED.

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

11 (C) THE RECORDS SHALL INCLUDE:

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

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

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

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

19 (I) THE SCRAP METAL GRADE OR OTHER TERMINOLOGY
20 NORMALLY USED WITHIN THE SCRAP METAL INDUSTRY;

21 (II) THE TOTAL WEIGHT OF EACH GRADE OR TYPE OF SCRAP
22 METAL PURCHASED; AND

23 (III) THE ACTUAL AMOUNT PAID OR OTHER CONSIDERATION FOR
24 THE TRANSACTION; AND

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

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

31 (E) THE RECORDS REQUIRED BY THIS SECTION:

32 (1) SHALL BE KEPT CONFIDENTIAL;

33 (2) ARE NOT PUBLIC RECORDS; AND

34 (3) ARE NOT SUBJECT TO TITLE 10, SUBTITLE 6 OF THE STATE
35 GOVERNMENT ARTICLE.

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1 (F) FOR THE PURPOSES OF SUBSECTION (A) OF THIS SECTION, A PRIMARY
2 LAW ENFORCEMENT AGENCY SHALL PERMIT A SCRAP METAL PROCESSOR TO USE
3 ANY TYPE OF SCALE TICKET OR RECEIPTS THAT ARE COMPATIBLE WITH THE SCRAP
4 METAL PROCESSOR'S INFORMATION SYSTEMS, SO LONG AS ALL THE INFORMATION
5 REQUIRED BY THIS SECTION IS CONTAINED ON THOSE SCALE TICKETS OR RECEIPTS.

6 20-104.

7 IF A SCRAP METAL PROCESSOR REFUSES TO ALLOW ACCESS TO THE PREMISES
8 OR TO PRODUCE RECORDS OR ITEMS FOR INSPECTION BY A LAW ENFORCEMENT
9 OFFICER, THE LAW ENFORCEMENT OFFICER SHALL OBTAIN A SEARCH WARRANT.

10 20-105.

11 (A) A SCRAP METAL PROCESSOR SHALL RELEASE TO THE APPROPRIATE LAW
12 ENFORCEMENT AGENCY IN THE COUNTY IN WHICH THE SCRAP METAL PROCESSOR'S
13 PLACE OF BUSINESS IS LOCATED ANY ITEM OF PERSONAL PROPERTY:

14 (1) THAT IS ESTABLISHED TO HAVE BEEN STOLEN;

15 (2) THAT HAS BEEN POSITIVELY IDENTIFIED BY THE OWNER OR VICTIM
16 OF A THEFT;

17 (3) THAT THE OWNER OR AGENT OR DESIGNEE OF THE OWNER HAS
18 PROVIDED A WRITTEN AFFIDAVIT OF OWNERSHIP FOR; AND

19 (4) FOR WHICH A STOLEN PROPERTY REPORT, DESCRIBING THE
20 PROPERTY IN DETAIL, HAS BEEN FILED WITH A LAW ENFORCEMENT AGENCY.

21 (B) THE APPROPRIATE LAW ENFORCEMENT AGENCY THAT TAKES
22 POSSESSION OF ANY ITEM OF PERSONAL PROPERTY FROM A SCRAP METAL
23 PROCESSOR SHALL ISSUE A RECEIPT THAT DESCRIBES, IN DETAIL, THE ITEM OF
24 PERSONAL PROPERTY.

25 (C) WHEN THE LAW ENFORCEMENT AGENCY NO LONGER HAS ANY
26 EVIDENTIARY NEED FOR THE ITEM TO REMAIN IN ITS POSSESSION, THE AGENCY
27 SHALL RELEASE THE ITEM TO THE POSSESSION OF THE ACTUAL OWNER AS
28 DETERMINED BY A COURT OF COMPETENT JURISDICTION.

29 (D) WHEN A LAWFUL OWNER RECOVERS STOLEN SCRAP METAL FROM A
30 SCRAP METAL PROCESSOR WHO HAS COMPLIED WITH THE PROVISIONS OF THIS
31 TITLE, AND THE PERSON WHO SOLD THE SCRAP METAL TO THE SCRAP METAL
32 PROCESSOR IS CONVICTED OF THEFT, OR THEFT BY RECEIVING STOLEN PROPERTY,
33 THE COURT SHALL ORDER THE DEFENDANT TO MAKE FULL RESTITUTION,
34 INCLUDING ATTORNEYS' FEES, COURT COSTS, AND OTHER EXPENSES, TO THE SCRAP
35 METAL PROCESSOR.

36 20-106.

37 A COUNTY OR MUNICIPAL CORPORATION MAY NOT ENACT ANY LOCAL LAW,
38 ORDINANCE, OR REGULATION REGULATING SCRAP METAL PROCESSORS, AND THIS
39 TITLE PREEMPTS AND SUPERSEDES ALL EXISTING LOCAL LAWS, ORDINANCES, OR
40 REGULATIONS REGULATING SCRAP METAL PROCESSORS.

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1 20-107.

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

4 (1) THE SELLER GIVES TO THE SCRAP METAL PROCESSOR A LETTER
5 FROM A GOVERNMENT AGENCY SPECIFICALLY AUTHORIZING THAT SELLER OR
6 SELLER'S AGENT TO DISPOSE OF THE PROPERTY IN QUESTION; OR

7 (2) THE GOVERNMENT AGENCY FILES WITH THE SCRAP METAL
8 PROCESSOR A LIST OF PERSONS AUTHORIZED TO MAKE A SALE FOR THAT
9 GOVERNMENTAL AGENCY.

10 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
11 SCRAP METAL PROCESSOR MAY NOT ACCEPT OR PURCHASE SCRAP METAL FROM A
12 MINOR.

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

15 20-108.

16 (A) A PERSON WHO WILLFULLY OR KNOWINGLY VIOLATES ANY PROVISION
17 OF THIS TITLE, AND EACH EMPLOYEE WHO PARTICIPATES IN A VIOLATION OR
18 CONSENTS TO A VIOLATION, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
19 SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 30
20 DAYS OR BOTH.

21 (B) EACH SEPARATE VIOLATION OF ANY PROVISION OF THIS TITLE IS A
22 SEPARATE OFFENSE.

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