

HOUSE BILL 23

C2
HB 727/08 – ECM

EMERGENCY BILL
(PRE-FILED)

9lr0607

By: **Delegate Kullen**

Requested: September 15, 2008

Introduced and read first time: January 14, 2009

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Junk Dealers and Scrap Metal Processors – Required Records**

3 FOR the purpose of altering the requirements for records that certain junk dealers
4 and scrap metal processors must keep for each purchase of certain junk or scrap
5 metal in the State; providing that certain provisions of law do not apply to
6 certain transactions; providing that this Act applies to certain automotive
7 dismantlers and scrap metal processors; providing for the applicability of the
8 record keeping requirements; providing for the form and content of the records;
9 requiring that certain records be kept electronically; providing for the
10 submission of certain records to certain law enforcement units under certain
11 circumstances; authorizing certain law enforcement units to issue certain
12 waivers under certain circumstances; requiring junk dealers and scrap metal
13 processors who are residents of the State to keep the required records for a
14 certain period of time; providing that the records shall be open to inspection by
15 certain law enforcement personnel; prohibiting junk dealers and scrap metal
16 processors from purchasing junk or scrap metal unless the person seeking to sell
17 the junk or scrap metal provides certain documentation; authorizing State or
18 local law enforcement personnel to request information from certain records
19 under certain circumstances; authorizing a State or local law enforcement
20 agency to issue a certain hold notice under certain circumstances; authorizing
21 certain law enforcement personnel to enforce this Act; establishing certain
22 penalties; altering a certain definition; making this Act an emergency measure;
23 and generally relating to junk dealers and scrap metal processors.

24 BY repealing and reenacting, with amendments,
25 Article – Business Regulation
26 Section 12–102(a), 17–1001(e), 17–1010, and 17–1011
27 Annotated Code of Maryland
28 (2004 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
2 Article – Business Regulation
3 Section 17–1001(a)
4 Annotated Code of Maryland
5 (2004 Replacement Volume and 2008 Supplement)

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

8 **Article – Business Regulation**

9 12–102.

10 (a) This title does not apply to a transaction that involves:

11 (1) merchandise acquired from an established manufacturer or dealer
12 who holds a license under this title, other than a pawnbroker, if the dealer who
13 acquires the merchandise keeps an invoice or other customary proof of origin for the
14 merchandise;

15 (2) a metal acquired for use in dentistry by a dentist licensed to
16 practice dentistry under Title 4 of the Health Occupations Article; [or]

17 (3) coins or numismatic items; **OR**

18 (4) **THE PURCHASE OF JUNK OR SCRAP METAL THAT IS SUBJECT**
19 **TO THE RECORD AND REPORTING REQUIREMENTS UNDER § 17–1011 OF THIS**
20 **ARTICLE.**

21 17–1001.

22 (a) In this subtitle the following words have the meanings indicated.

23 (e) “Junk” or “scrap metal” includes:

24 (1) articles made wholly or [partly] **SUBSTANTIALLY** of:

25 (i) aluminum;

26 (ii) babbitt metal;

27 (iii) brass;

28 (iv) bronze;

29 (v) light copper;

- 1 (vi) heavy copper;
- 2 (vii) lead;
- 3 (viii) low carbon chrome;
- 4 (ix) low carbon manganese;
- 5 (x) molybdenum;
- 6 (xi) monel metal;
- 7 (xii) pewter;
- 8 (xiii) nickel;
- 9 **(XIV) STAINLESS STEEL;**
- 10 [(xiv)] **(XV) tin;**
- 11 [(xv)] **(XVI) vanadium; [or]**
- 12 [(xvi)] **(XVII) zinc;**
- 13 **(XVIII) PLATINUM;**
- 14 **(XIX) GOLD;**
- 15 **(XX) RHODIUM; OR**
- 16 **(XXI) NONFERROUS METALS;**
- 17 (2) [stoves] **STREET SIGNS;**
- 18 (3) [plumbing fixtures and supplies] **GUARD RAILS;**
- 19 (4) [electrical fixtures and wiring;
- 20 (5) gas fixtures and appliances;
- 21 (6) pipes;
- 22 (7) locks;
- 23 (8) used railroad equipment;

1 (9) used farm machinery; and] **HARD DRAWN COPPER ELECTRICAL**
2 **CONDUCTORS, CABLES, OR WIRE GREATER THAN THREE-EIGHTHS OF 1 INCH IN**
3 **DIAMETER, STRANDED OR SOLID;**

4 (5) **ALUMINUM CONDUCTORS, CABLES, OR WIRES GREATER THAN**
5 **THREE-QUARTERS OF 1 INCH IN DIAMETER, STRANDED OR SOLID;**

6 (6) **METAL BEER KEGS;**

7 (7) **MANHOLE COVERS;**

8 (8) **TREE GRATES;**

9 (9) **METAL LIGHT POLES;**

10 (10) **CATALYTIC CONVERTERS; AND**

11 [(10)] (11) any other similar used material **COMMONLY ASSOCIATED**
12 **WITH PUBLIC UTILITY MAINTENANCE.**

13 17-1010.

14 [(a)] A nonresident junk dealer or nonresident scrap metal processor may not
15 keep a fixed place of business in the State.

16 [(b) (1)] Before transporting junk or scrap metal from the State, each
17 nonresident junk dealer, nonresident scrap metal processor, or agent of a nonresident
18 junk dealer or nonresident scrap metal processor shall register with the sheriff of the
19 county where the junk or scrap metal was bought a complete description of the junk or
20 scrap metal to be transported.

21 (2) The description shall include:

22 (i) the date of purchase;

23 (ii) the name and junk dealer or scrap metal processor license
24 number, if any, of the buyer;

25 (iii) the name and junk dealer or scrap metal processor license
26 number, if any, of the seller;

27 (iv) the license tag number of the vehicle used; and

28 (v) the name of any consignee.]

29 17-1011.

1 [(a) Each junk dealer or scrap metal processor who is a resident of the State
2 shall keep a written record in English that:

3 (1) for each purchase of junk or scrap metal:

4 (i) is made at the time of the purchase; and

5 (ii) includes:

6 1. a description of the junk or scrap metal purchased;

7 2. the name and address of the seller;

8 3. the license tag number of any vehicle used; and

9 4. the date and time of the purchase; and

10 (2) for each sale of junk or scrap metal, shows the name and address of
11 the buyer.

12 (b) The records shall be open to inspection by State or local law enforcement
13 personnel for the jurisdiction where the place of business of the junk dealer or scrap
14 metal processor is located.]

15 **(A) (1) THIS SECTION APPLIES TO ALL JUNK DEALERS AND SCRAP**
16 **METAL PROCESSORS DOING BUSINESS IN THE STATE, INCLUDING NONRESIDENT**
17 **JUNK DEALERS, NONRESIDENT SCRAP METAL PROCESSORS, AND JUNK DEALERS**
18 **AND SCRAP METAL PROCESSORS WHO ARE RESIDENTS OF THE COUNTIES**
19 **LISTED IN § 17-1002(A) OF THIS SUBTITLE.**

20 **(2) THIS SECTION APPLIES TO AN AUTOMOTIVE DISMANTLER AND**
21 **RECYCLER OR SCRAP METAL PROCESSOR LICENSED UNDER TITLE 15,**
22 **SUBTITLE 5 OF THE TRANSPORTATION ARTICLE.**

23 **(B) (1) FOR EACH PURCHASE OF JUNK OR SCRAP METAL IN THE**
24 **STATE, A JUNK DEALER OR SCRAP METAL PROCESSOR SHALL KEEP AN**
25 **ACCURATE RECORD IN ENGLISH THAT INCLUDES:**

26 **(I) THE DATE AND TIME OF PURCHASE;**

27 **(II) A DESCRIPTION OF THE JUNK OR SCRAP METAL,**
28 **INCLUDING ITS WEIGHT IF PAYMENT IS BASED ON WEIGHT;**

29 **(III) THE AMOUNT PAID OR OTHER CONSIDERATION FOR THE**
30 **JUNK OR SCRAP METAL;**

1 (IV) THE LICENSE TAG NUMBER, MAKE, AND MODEL OF ANY
2 VEHICLE USED;

3 (V) THE NAME AND ADDRESS OF THE INDIVIDUAL FROM
4 WHOM THE JUNK OR SCRAP METAL IS ACQUIRED;

5 (VI) THE SIGNATURE OF:

6 1. THE INDIVIDUAL FROM WHOM THE JUNK OR
7 SCRAP METAL IS ACQUIRED; AND

8 2. THE JUNK DEALER, SCRAP METAL PROCESSOR,
9 OR EMPLOYEE WHO ACCEPTED THE JUNK OR SCRAP METAL; AND

10 (VII) FOR EACH INDIVIDUAL FROM WHOM THE JUNK DEALER
11 OR SCRAP METAL PROCESSOR ACQUIRES JUNK OR SCRAP METAL:

12 1. THE DATE OF BIRTH AND DRIVER'S LICENSE
13 NUMBER OF THE INDIVIDUAL; OR

14 2. IDENTIFICATION INFORMATION ABOUT THE
15 INDIVIDUAL THAT:

16 A. POSITIVELY IDENTIFIES THE INDIVIDUAL FROM
17 AT LEAST TWO FORMS OF IDENTIFICATION; AND

18 B. PROVIDES A PHYSICAL DESCRIPTION OF THE
19 INDIVIDUAL, INCLUDING THE SEX, RACE, ANY DISTINGUISHING FEATURES, AND
20 APPROXIMATE AGE, HEIGHT, AND WEIGHT OF THE INDIVIDUAL.

21 (2) THE RECORD KEEPING REQUIREMENTS OF THIS SUBSECTION:

22 (I) APPLY TO ALUMINUM BLEACHERS;

23 (II) APPLY TO KEGS MADE OF ALUMINUM OR ANY OTHER
24 METAL; AND

25 (III) DO NOT APPLY TO BEVERAGE CANS OR FOOD CANS.

26 (3) THE RECORDS REQUIRED UNDER THIS SUBSECTION SHALL BE
27 KEPT IN ELECTRONIC FORM.

28 (4) (I) A JUNK DEALER AND SCRAP METAL PROCESSOR SHALL
29 SUBMIT A COPY OF EACH RECORD REQUIRED UNDER THIS SUBSECTION TO THE

1 PRIMARY LAW ENFORCEMENT UNIT IN ACCORDANCE WITH SUBPARAGRAPHS (II)
2 AND (III) OF THIS PARAGRAPH.

3 (II) A JUNK DEALER AND SCRAP METAL PROCESSOR SHALL
4 SUBMIT A RECORD BY TRANSMITTING A COPY OF THE RECORDS
5 ELECTRONICALLY, IN A FORMAT ACCEPTABLE TO THE RECEIVING PRIMARY LAW
6 ENFORCEMENT UNIT, BY THE END OF EACH BUSINESS DAY.

7 (III) EACH COPY OF A RECORD SUBMITTED TO THE PRIMARY
8 LAW ENFORCEMENT UNIT SHALL INCLUDE:

9 1. THE DATE AND TIME OF PURCHASE;

10 2. A DESCRIPTION OF THE JUNK OR SCRAP METAL,
11 INCLUDING ITS WEIGHT IF PAYMENT IS BASED ON WEIGHT; AND

12 3. WHETHER THE AMOUNT PAID OR OTHER
13 CONSIDERATION FOR THE JUNK OR SCRAP METAL EXCEEDS \$500.

14 (IV) A COPY OF A RECORD SUBMITTED UNDER THIS
15 PARAGRAPH:

16 1. SHALL BE KEPT CONFIDENTIAL;

17 2. IS NOT A PUBLIC RECORD; AND

18 3. IS NOT SUBJECT TO TITLE 10, SUBTITLE 6 OF THE
19 STATE GOVERNMENT ARTICLE.

20 (V) A LAW ENFORCEMENT UNIT MAY DESTROY THE COPY OF
21 A RECORD SUBMITTED UNDER THIS SECTION AFTER 1 YEAR FROM THE DATE
22 THE LAW ENFORCEMENT UNIT RECEIVES THE COPY.

23 (5) (I) THE PRIMARY LAW ENFORCEMENT UNIT MAY WAIVE
24 THE HOLDING OF ELECTRONIC RECORDS UNDER PARAGRAPH (3) OF THIS
25 SUBSECTION OR THE TRANSMISSION OF ELECTRONIC RECORDS UNDER
26 PARAGRAPH (4)(II) OF THIS SUBSECTION BY A JUNK DEALER OR SCRAP METAL
27 PROCESSOR.

28 (II) ANY WAIVERS GRANTED UNDER SUBPARAGRAPH (I) OF
29 THIS PARAGRAPH SHALL BE LIMITED TO AUTHORIZING A JUNK DEALER OR
30 SCRAP METAL PROCESSOR TO HOLD WRITTEN RECORDS OR TO TRANSMIT
31 RECORDS BY FACSIMILE OR BY MAIL.

1 **(C) (1) THIS SUBSECTION APPLIES TO JUNK DEALERS AND SCRAP**
2 **METAL PROCESSORS WHO ARE RESIDENTS OF THE STATE.**

3 **(2) EACH JUNK DEALER OR SCRAP METAL PROCESSOR SHALL**
4 **KEEP THE RECORDS REQUIRED BY SUBSECTION (B) OF THIS SECTION FOR 1**
5 **YEAR AFTER THE DATE OF THE TRANSACTION.**

6 **(3) THE RECORDS KEPT IN ACCORDANCE WITH THIS SUBSECTION**
7 **SHALL BE OPEN TO INSPECTION BY STATE OR LOCAL LAW ENFORCEMENT**
8 **PERSONNEL FOR THE JURISDICTION WHERE THE PLACE OF BUSINESS OF THE**
9 **JUNK DEALER OR SCRAP METAL PROCESSOR IS LOCATED.**

10 **[(c)] (D) A State junk licensee may not barter, buy, exchange, or accept**
11 **from a person any junk or scrap metal unless the State junk licensee keeps records**
12 **and makes entries in them in accordance with Part II of this subtitle.**

13 **(E) (1) STATE OR LOCAL LAW ENFORCEMENT PERSONNEL**
14 **CONDUCTING AN INVESTIGATION IN THE AREA WHERE THE BUSINESS OF THE**
15 **JUNK DEALER OR SCRAP METAL PROCESSOR IS LOCATED MAY REQUEST**
16 **INFORMATION FROM THE RECORDS REQUIRED UNDER SUBSECTION (B)(1) OF**
17 **THIS SECTION.**

18 **(2) (I) IF A STATE OR LOCAL LAW ENFORCEMENT AGENCY**
19 **PROVIDES REASONABLE CAUSE TO BELIEVE THAT ITEMS OF SCRAP METAL IN**
20 **POSSESSION OF A JUNK DEALER OR SCRAP METAL PROCESSOR ARE STOLEN,**
21 **THEN THE LAW ENFORCEMENT AGENCY MAY ISSUE A WRITTEN HOLD NOTICE.**

22 **(II) THE WRITTEN HOLD NOTICE SHALL:**

23 **1. IDENTIFY THE ITEMS OF REGULATED SCRAP**
24 **METAL ALLEGED TO BE STOLEN AND SUBJECT TO HOLD; AND**

25 **2. INFORM THE JUNK DEALER OR SCRAP METAL**
26 **PROCESSOR OF THE HOLD IMPOSED ON THE ITEMS OF REGULATED SCRAP**
27 **METAL.**

28 **(III) FOR 10 DAYS AFTER THE DATE OF RECEIVING A HOLD**
29 **NOTICE, A JUNK DEALER OR SCRAP METAL PROCESSOR MAY NOT PROCESS OR**
30 **REMOVE FROM THE JUNK DEALER'S OR SCRAP METAL PROCESSOR'S PLACE OF**
31 **BUSINESS ANY ITEMS OF REGULATED SCRAP METAL IDENTIFIED IN THE HOLD**
32 **NOTICE, UNLESS THE ITEM IS RELEASED EARLIER BY THE LAW ENFORCEMENT**
33 **AGENCY OR BY COURT ORDER.**

34 **(F) LOCAL LAW ENFORCEMENT PERSONNEL OF THE COUNTY WHERE**
35 **THE PLACE OF BUSINESS OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS**

1 LOCATED OR WHERE THE JUNK OR SCRAP METAL WAS PURCHASED MAY
2 ENFORCE THIS SECTION.

3 (G) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
4 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

5 (1) A FINE NOT EXCEEDING \$500 FOR A FIRST OFFENSE; AND

6 (2) A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT
7 EXCEEDING 1 YEAR OR BOTH FOR A SUBSEQUENT OFFENSE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
9 measure, is necessary for the immediate preservation of the public health or safety,
10 has been passed by a yea and nay vote supported by three-fifths of all the members
11 elected to each of the two Houses of the General Assembly, and shall take effect from
12 the date it is enacted.