

# HOUSE BILL 23

C2  
HB 727/08 – ECM

~~EMERGENCY BILL~~  
(PRE-FILED)

9lr0607

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By: ~~Delegate Kullen~~ Delegates Kullen, Sophocleus, Barkley, Braveboy, Feldman, Haddaway, Harrison, Hecht, Jameson, King, Krysiak, Love, Manno, Mathias, and McHale

Requested: September 15, 2008  
Introduced and read first time: January 14, 2009  
Assigned to: Economic Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 26, 2009

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## CHAPTER \_\_\_\_\_

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 during certain hours; prohibiting junk  
16 dealers and scrap metal processors from purchasing junk or scrap metal unless  
17 the person seeking to sell the junk or scrap metal provides certain  
18 documentation; authorizing State or local law enforcement personnel to request  
19 information from certain records under certain circumstances; authorizing a  
20 State or local law enforcement agency to issue a certain hold notice under  
21 certain circumstances; authorizing certain law enforcement personnel to enforce  
22 this Act; establishing certain penalties; altering a certain definition; ~~making~~

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~this Act an emergency measure~~; and generally relating to junk dealers and  
 2 scrap metal processors.

3 BY repealing and reenacting, with amendments,  
 4 Article – Business Regulation  
 5 Section 12–102(a), 17–1001(e), 17–1010, and 17–1011  
 6 Annotated Code of Maryland  
 7 (2004 Replacement Volume and 2008 Supplement)

8 BY repealing and reenacting, without amendments,  
 9 Article – Business Regulation  
 10 Section 17–1001(a)  
 11 Annotated Code of Maryland  
 12 (2004 Replacement Volume and 2008 Supplement)

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

15 **Article – Business Regulation**

16 12–102.

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

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

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

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

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

28 17–1001.

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

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

31 (1) **NONFERROUS** articles made wholly or [partly] **SUBSTANTIALLY**  
 32 of:

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

- 1 (5) gas fixtures and appliances;  
 2 (6) pipes;  
 3 (7) locks;  
 4 (8) used railroad equipment;  
 5 (9) used farm machinery; and] **HARD DRAWN COPPER ELECTRICAL**  
 6 **CONDUCTORS, CABLES, OR WIRE ~~GREATER THAN THREE EIGHTHS OF 1 INCH IN~~**  
 7 **~~DIAMETER, STRANDED OR SOLID;~~**

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

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

11 (7) **MANHOLE COVERS;**

12 (8) **TREE GRATES;**

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

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

15 **(11) CEMETERY URNS;**

16 **(12) GRAVE MARKERS; AND**

17 [(10)] ~~(11)~~ **(13)** any other similar used material ~~COMMONLY~~  
 18 **ASSOCIATED WITH OWNED BY A PUBLIC UTILITY MAINTENANCE.**

19 17-1010.

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

22 [(b) (1)] Before transporting junk or scrap metal from the State, each  
 23 nonresident junk dealer, nonresident scrap metal processor, or agent of a nonresident  
 24 junk dealer or nonresident scrap metal processor shall register with the sheriff of the  
 25 county where the junk or scrap metal was bought a complete description of the junk or  
 26 scrap metal to be transported.

27 (2) The description shall include:

- 1 (i) the date of purchase;
- 2 (ii) the name and junk dealer or scrap metal processor license  
3 number, if any, of the buyer;
- 4 (iii) the name and junk dealer or scrap metal processor license  
5 number, if any, of the seller;
- 6 (iv) the license tag number of the vehicle used; and
- 7 (v) the name of any consignee.]

8 17-1011.

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

- 11 (1) for each purchase of junk or scrap metal:
- 12 (i) is made at the time of the purchase; and
- 13 (ii) includes:
- 14 1. a description of the junk or scrap metal purchased;
- 15 2. the name and address of the seller;
- 16 3. the license tag number of any vehicle used; and
- 17 4. the date and time of the purchase; and
- 18 (2) for each sale of junk or scrap metal, shows the name and address of  
19 the buyer.

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

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

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

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

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

5                   **(II) A DESCRIPTION OF THE JUNK OR SCRAP METAL**  
6 **ACCORDING TO INDUSTRY CUSTOMS, INCLUDING ITS WEIGHT IF PAYMENT IS**  
7 **BASED ON WEIGHT;**

8                   **(III) THE AMOUNT PAID OR OTHER CONSIDERATION FOR THE**  
9 **JUNK OR SCRAP METAL;**

10                  **(IV) THE LICENSE TAG NUMBER, MAKE, AND MODEL OF ANY**  
11 **VEHICLE USED;**

12                  **(V) THE NAME AND ADDRESS OF THE INDIVIDUAL FROM**  
13 **WHOM THE JUNK OR SCRAP METAL IS ACQUIRED;**

14                  **(VI) THE SIGNATURE OF:**

15                    **1. THE INDIVIDUAL FROM WHOM THE JUNK OR**  
16 **SCRAP METAL IS ACQUIRED; AND**

17                    **2. THE JUNK DEALER, SCRAP METAL PROCESSOR,**  
18 **OR EMPLOYEE WHO ACCEPTED THE JUNK OR SCRAP METAL; AND**

19                  **(VII) FOR EACH INDIVIDUAL FROM WHOM THE JUNK DEALER**  
20 **OR SCRAP METAL PROCESSOR ACQUIRES JUNK OR SCRAP METAL:**

21                    **1. THE DATE OF BIRTH AND DRIVER'S LICENSE**  
22 **NUMBER OF THE INDIVIDUAL; OR**

23                    **2. IDENTIFICATION INFORMATION ABOUT THE**  
24 **INDIVIDUAL ~~THAT:~~**

25                    ~~**A. POSITIVELY IDENTIFIES THE INDIVIDUAL FROM**~~  
26 ~~**AT LEAST TWO FORMS OF IDENTIFICATION; AND**~~

27                    ~~**B. FROM A VALID STATE-ISSUED PHOTO ID THAT**~~  
28 ~~**PROVIDES A PHYSICAL DESCRIPTION OF THE INDIVIDUAL, INCLUDING THE SEX,**~~  
29 ~~**RACE, ANY DISTINGUISHING FEATURES, AND APPROXIMATE AGE, HEIGHT, AND**~~  
30 ~~**WEIGHT OF THE INDIVIDUAL.**~~

1           **(2) THE RECORD KEEPING REQUIREMENTS OF THIS SUBSECTION:**

2                   **(I) APPLY TO ALUMINUM BLEACHERS;**

3                   **(II) APPLY TO KEGS MADE OF ALUMINUM OR ANY OTHER**  
4 **METAL; AND**

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

6           **(3) THE RECORDS REQUIRED UNDER THIS SUBSECTION SHALL BE**  
7 **KEPT IN ELECTRONIC FORM.**

8                   **(4) (I) A JUNK DEALER AND SCRAP METAL PROCESSOR SHALL**  
9 **SUBMIT A COPY OF EACH RECORD REQUIRED UNDER THIS SUBSECTION TO THE**  
10 **PRIMARY LAW ENFORCEMENT UNIT IN ACCORDANCE WITH SUBPARAGRAPHS (II)**  
11 **AND (III) OF THIS PARAGRAPH.**

12                           **(II) A JUNK DEALER AND SCRAP METAL PROCESSOR SHALL**  
13 **SUBMIT A RECORD BY TRANSMITTING A COPY OF THE RECORDS**  
14 **ELECTRONICALLY, IN A FORMAT ACCEPTABLE TO THE RECEIVING PRIMARY LAW**  
15 **ENFORCEMENT UNIT, BY THE END OF EACH BUSINESS DAY.**

16                           **(III) EACH COPY OF A RECORD SUBMITTED TO THE PRIMARY**  
17 **LAW ENFORCEMENT UNIT SHALL INCLUDE:**

18                                   **1. THE DATE AND TIME OF PURCHASE;**

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

21                                   **3. WHETHER THE AMOUNT PAID OR OTHER**  
22 **CONSIDERATION FOR THE JUNK OR SCRAP METAL EXCEEDS \$500.**

23                           **(IV) A COPY OF A RECORD SUBMITTED UNDER THIS**  
24 **PARAGRAPH:**

25                                   **1. SHALL BE KEPT CONFIDENTIAL;**

26                                   **2. IS NOT A PUBLIC RECORD; AND**

27                                   **3. IS NOT SUBJECT TO TITLE 10, SUBTITLE 6 OF THE**  
28 **STATE GOVERNMENT ARTICLE.**

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

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

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

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

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

18 (3) THE RECORDS KEPT IN ACCORDANCE WITH THIS SUBSECTION  
19 SHALL BE OPEN TO INSPECTION, DURING NORMAL BUSINESS HOURS, BY STATE  
20 OR LOCAL LAW ENFORCEMENT PERSONNEL FOR THE JURISDICTION WHERE THE  
21 PLACE OF BUSINESS OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS  
22 LOCATED.

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

26 ~~(E)~~ (1) STATE OR LOCAL LAW ENFORCEMENT PERSONNEL  
27 CONDUCTING AN INVESTIGATION IN THE AREA WHERE THE BUSINESS OF THE  
28 JUNK DEALER OR SCRAP METAL PROCESSOR IS LOCATED MAY REQUEST  
29 INFORMATION FROM THE RECORDS REQUIRED UNDER SUBSECTION (B)(1) OF  
30 THIS SECTION.

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

35 (II) THE WRITTEN HOLD NOTICE SHALL:



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

3                   2.    INFORM THE JUNK DEALER OR SCRAP METAL  
4 PROCESSOR OF THE HOLD IMPOSED ON THE ITEMS OF REGULATED SCRAP  
5 METAL.

6                   (III) FOR ~~10~~ 5 DAYS AFTER THE DATE OF RECEIVING A HOLD  
7 NOTICE, A JUNK DEALER OR SCRAP METAL PROCESSOR MAY NOT PROCESS OR  
8 REMOVE FROM THE JUNK DEALER’S OR SCRAP METAL PROCESSOR’S PLACE OF  
9 BUSINESS ANY ITEMS OF REGULATED SCRAP METAL IDENTIFIED IN THE HOLD  
10 NOTICE, UNLESS THE ITEM IS RELEASED EARLIER BY THE LAW ENFORCEMENT  
11 AGENCY OR BY COURT ORDER.

12               ~~(F)~~ (E)       LOCAL LAW ENFORCEMENT PERSONNEL OF THE COUNTY  
13 WHERE THE PLACE OF BUSINESS OF THE JUNK DEALER OR SCRAP METAL  
14 PROCESSOR IS LOCATED OR WHERE THE JUNK OR SCRAP METAL WAS  
15 PURCHASED MAY ENFORCE THIS SECTION.

16               ~~(G)~~ (F)       A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A  
17 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

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

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

21               SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~is an emergency~~  
22 ~~measure, is necessary for the immediate preservation of the public health or safety,~~  
23 ~~has been passed by a yea and nay vote supported by three fifths of all the members~~  
24 ~~elected to each of the two Houses of the General Assembly, and shall take effect from~~  
25 ~~the date it is enacted~~ shall take effect July 1, 2009.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.