

# HOUSE BILL 207

C2  
SB 521/08 – FIN

EMERGENCY BILL

9lr1184  
CF SB 32

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By: **Delegates Sophocleus, Aumann, Barkley, Beidle, Boteler, Cane, Costa, DeBoy, Dwyer, Elmore, Frush, Holmes, Jameson, Krebs, Love, Mathias, McConkey, McDonough, Shewell, Sossi, and Wood**

Introduced and read first time: January 28, 2009

Assigned to: Economic Matters

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## 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 for the applicability of the record-keeping  
7 requirements; providing for the form and contents of the records; requiring that  
8 certain records be kept electronically; providing for the submission of certain  
9 records to certain law enforcement units under certain circumstances;  
10 authorizing certain law enforcement units to issue certain waivers under  
11 certain circumstances; prohibiting junk dealers and scrap metal processors from  
12 purchasing a catalytic converter except under certain circumstances;  
13 authorizing State or local law enforcement personnel to request information  
14 from certain records under certain circumstances; authorizing a State or local  
15 law enforcement agency to issue a certain hold notice under certain  
16 circumstances; establishing that certain items of junk or scrap metal are subject  
17 to a certain holding period; exempting certain items acquired from certain  
18 entities from a certain holding requirement; authorizing certain law  
19 enforcement personnel to enforce this Act; establishing certain penalties;  
20 altering a certain definition; providing that this Act may not be construed to  
21 preempt a certain entity from enacting and enforcing certain measures; making  
22 this Act an emergency measure; and generally relating to junk dealers and  
23 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)

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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) and (f)  
4 Annotated Code of Maryland  
5 (2004 Replacement Volume and 2008 Supplement)

6 BY adding to  
7 Article – Business Regulation  
8 Section 17–1001(g)  
9 Annotated Code of Maryland  
10 (2004 Replacement Volume and 2008 Supplement)

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

13 **Article – Business Regulation**

14 12–102.

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

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

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

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

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

26 17–1001.

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

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

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

30 (i) aluminum;

31 (ii) babbitt metal;

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

- 1 (6) pipes;
- 2 (7) locks;
- 3 (8) used railroad equipment;
- 4 (9) used farm machinery; and
- 5 (10) any other similar used material.]

6 **(2) THE FOLLOWING USED ARTICLES, MADE OF EITHER FERROUS**  
7 **OR NONFERROUS METAL:**

- 8 (I) **CATALYTIC CONVERTERS;**
- 9 (II) **METAL BLEACHERS;**
- 10 (III) **HARD-DRAWN COPPER;**
- 11 (IV) **METAL BEER KEGS;**
- 12 (V) **CEMETERY URNS;**
- 13 (VI) **GRAVE MARKERS; AND**
- 14 (VII) **ANY OTHER USED ARTICLES COMMONLY ASSOCIATED**  
15 **WITH OR OWNED BY A PUBLIC UTILITY INCLUDING:**
  - 16 1. **GUARDRAILS;**
  - 17 2. **MANHOLE COVERS;**
  - 18 3. **METAL LIGHT POLES;**
  - 19 4. **TREE GRATES;**
  - 20 5. **WATER METERS; AND**
  - 21 6. **STREET SIGNS.**

22 **(3) “JUNK” OR “SCRAP METAL” DOES NOT INCLUDE BEVERAGE**  
23 **CANS OR FOOD CANS.**

24 (f) “Junk dealer” or “scrap metal processor” means a person who does  
25 business buying or selling junk or scrap metal.



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

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

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

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

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

13 (2) **THIS SECTION APPLIES TO AN AUTOMOTIVE DISMANTLER AND  
14 RECYCLER OR SCRAP PROCESSOR LICENSED UNDER TITLE 15, SUBTITLE 5 OF  
15 THE TRANSPORTATION ARTICLE IF THE AUTOMOTIVE DISMANTLER AND  
16 RECYCLER OR SCRAP PROCESSOR:**

17 (I) **CONDUCTS BUSINESS AS A LICENSED JUNK DEALER OR  
18 SCRAP METAL PROCESSOR; OR**

19 (II) **ACQUIRES VEHICLE PARTS THAT QUALIFY AS JUNK OR  
20 SCRAP METAL AS DEFINED UNDER § 17-1001(E) OF THIS SUBTITLE.**

21 (3) **THIS SECTION DOES NOT APPLY TO AN AUTOMOTIVE  
22 DISMANTLER AND RECYCLER OR SCRAP PROCESSOR WHO ACQUIRES WHOLE  
23 VEHICLES FOR THE PURPOSE OF DISMANTLING, DESTROYING, OR SCRAPPING  
24 THEM FOR THE BENEFIT OF THEIR PARTS OR THE MATERIALS IN THEM.**

25 (B) (1) **FOR EACH PURCHASE OF JUNK OR SCRAP METAL IN THE  
26 STATE, A JUNK DEALER OR SCRAP METAL PROCESSOR SHALL KEEP AN  
27 ACCURATE RECORD IN ENGLISH.**

28 (2) **THE RECORD SHALL STATE:**

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

30 (II) **A DESCRIPTION OF THE JUNK OR SCRAP METAL  
31 PURCHASED, INCLUDING:**

1                   1.    THE PREVIOUS USE OF THE JUNK OR SCRAP  
2 METAL, SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION;

3                   2.    THE TYPE AND GRADE OF THE JUNK OR SCRAP  
4 METAL; AND

5                   3.    IF PAYMENT IS BASED ON WEIGHT, THE WEIGHT  
6 OF EACH TYPE AND GRADE OF JUNK OR SCRAP METAL;

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

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

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

13                  (VI) THE SIGNATURE OF:

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

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

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

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

22                   2.    IDENTIFICATION INFORMATION ABOUT THE  
23 INDIVIDUAL THAT:

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

26                   B.    PROVIDES A PHYSICAL DESCRIPTION OF THE  
27 INDIVIDUAL, INCLUDING THE SEX, RACE, ANY DISTINGUISHING FEATURES, AND  
28 APPROXIMATE AGE, HEIGHT, AND WEIGHT OF THE INDIVIDUAL.

29                  (3) IF THE PREVIOUS USE OF THE JUNK OR SCRAP METAL AS  
30 REQUIRED BY PARAGRAPH (2)(II)1 OF THIS SUBSECTION IS UNKNOWN, THE

1 JUNK DEALER OR SCRAP METAL PROCESSOR SHALL MAKE A GOOD FAITH  
2 EFFORT TO DESCRIBE THE APPARENT OR PREVIOUS USE IF THE JUNK OR SCRAP  
3 METAL IS IDENTIFIABLE.

4 (4) THE RECORDS REQUIRED UNDER THIS SUBSECTION SHALL BE  
5 KEPT IN ELECTRONIC FORM.

6 (5) THE JUNK DEALER OR SCRAP METAL PROCESSOR SHALL  
7 SUBMIT A COPY OF EACH RECORD REQUIRED UNDER THIS SUBSECTION  
8 ELECTRONICALLY TO THE PRIMARY LAW ENFORCEMENT UNIT BY THE END OF  
9 EACH BUSINESS DAY, IN A FORMAT THAT IS ACCEPTABLE TO THE RECEIVING  
10 PRIMARY LAW ENFORCEMENT UNIT.

11 (6) A COPY OF A RECORD SUBMITTED UNDER PARAGRAPH (5) OF  
12 THIS SUBSECTION:

13 (I) SHALL BE KEPT CONFIDENTIAL;

14 (II) IS NOT A PUBLIC RECORD; AND

15 (III) IS NOT SUBJECT TO TITLE 10, SUBTITLE 6 OF THE  
16 STATE GOVERNMENT ARTICLE.

17 (7) THE PRIMARY LAW ENFORCEMENT UNIT MAY DESTROY THE  
18 COPY OF A RECORD SUBMITTED UNDER PARAGRAPH (5) OF THIS SUBSECTION  
19 AFTER 1 YEAR FROM THE DATE THAT THE PRIMARY LAW ENFORCEMENT UNIT  
20 RECEIVES THE COPY.

21 (8) (I) THE PRIMARY LAW ENFORCEMENT UNIT MAY WAIVE  
22 THE HOLDING OF ELECTRONIC RECORDS UNDER PARAGRAPH (4) OF THIS  
23 SUBSECTION OR THE SUBMISSION OF ELECTRONIC RECORDS UNDER  
24 PARAGRAPH (5) OF THIS SUBSECTION BY A JUNK DEALER OR SCRAP METAL  
25 PROCESSOR.

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

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



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

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

8           **[(c)] (D) (1) A State junk licensee may not barter, buy, exchange, or**  
9 **accept from a person any junk or scrap metal unless the State junk licensee keeps**  
10 **records and makes entries in them in accordance with Part II of this subtitle.**

11           **(2) A STATE JUNK LICENSEE MAY NOT PURCHASE A CATALYTIC**  
12 **CONVERTER FROM AN INDIVIDUAL UNLESS THE INDIVIDUAL, AT THE TIME OF**  
13 **PURCHASE, PROVIDES IDENTIFICATION AS:**

14                   **(I) A LICENSED AUTOMOTIVE DISMANTLER AND RECYCLER**  
15 **OR SCRAP PROCESSOR; OR**

16                   **(II) AN AGENT OR EMPLOYEE OF A LICENSED COMMERCIAL**  
17 **ENTERPRISE.**

18           **(E) STATE OR LOCAL LAW ENFORCEMENT PERSONNEL MAY REQUEST**  
19 **INFORMATION FROM THE RECORDS REQUIRED UNDER SUBSECTION (B) OF THIS**  
20 **SECTION PURSUANT TO AN INVESTIGATION IN THE AREA WHERE THE BUSINESS**  
21 **OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS LOCATED.**

22           **(F) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A**  
23 **JUNK DEALER OR SCRAP METAL PROCESSOR WHO ACQUIRES JUNK OR SCRAP**  
24 **METAL AS DEFINED IN § 17-1001(E)(2) OF THIS SUBTITLE SHALL KEEP THE**  
25 **JUNK OR SCRAP METAL AT THE JUNK DEALER'S OR SCRAP METAL PROCESSOR'S**  
26 **PLACE OF BUSINESS FROM THE TIME OF ACQUISITION UNTIL AT LEAST 5 DAYS**  
27 **AFTER SUBMITTING A COPY OF THE RECORD OF ITS ACQUISITION UNDER**  
28 **SUBSECTION (B) OF THIS SECTION.**

29           **(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**  
30 **THE HOLD REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION DOES NOT**  
31 **APPLY TO AN ITEM THAT IS ACQUIRED FROM:**

32                   **1. A LICENSED JUNK DEALER OR SCRAP METAL**  
33 **PROCESSOR;**



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

3           SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall  
4 be construed to preempt a county or municipal government from enacting and  
5 enforcing more stringent measures to curb the theft and resale of junk and scrap  
6 metal.

7           SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
8 measure, is necessary for the immediate preservation of the public health or safety,  
9 has been passed by a ye and nay vote supported by three-fifths of all the members  
10 elected to each of the two Houses of the General Assembly, and shall take effect from  
11 the date it is enacted.