

SENATE BILL 32

C2
SB 521/08 – FIN

EMERGENCY BILL
(PRE-FILED)

9lr0855
CF 9lr1184

By: **Senators DeGrange and Astle**

Requested: October 24, 2008

Introduced and read first time: January 14, 2009

Assigned to: Finance

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)

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)] **(VXII)** 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;
- 24 (6) pipes;

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

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

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

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

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

1 **(G) “PRIMARY LAW ENFORCEMENT UNIT” MEANS THE DEPARTMENT OF**
2 **STATE POLICE, A POLICE DEPARTMENT, OR SHERIFF, AS DESIGNATED BY**
3 **RESOLUTION OF THE COUNTY OR MUNICIPAL GOVERNING BODY IN THE COUNTY**
4 **IN WHICH THE LICENSE OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS**
5 **HELD.**

6 17-1010.

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

9 [(b) (1) Before transporting junk or scrap metal from the State, each
10 nonresident junk dealer, nonresident scrap metal processor, or agent of a nonresident
11 junk dealer or nonresident scrap metal processor shall register with the sheriff of the
12 county where the junk or scrap metal was bought a complete description of the junk or
13 scrap metal to be transported.

14 (2) The description shall include:

15 (i) the date of purchase;

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

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

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

21 (v) the name of any consignee.]

22 17-1011.

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

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

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

27 (ii) includes:

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

29 2. the name and address of the seller;

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

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.