

SENATE BILL 32

C2
SB 521/08 – FIN

EMERGENCY BILL
(PRE-FILED)

9lr0855
CF HB 207

By: **Senators DeGrange and Astle**

Requested: October 24, 2008

Introduced and read first time: January 14, 2009

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 27, 2009

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 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; providing
10 that certain provisions may not be construed to require junk dealers and scrap
11 metal processors to incur certain additional expenses for complying with certain
12 record submission requirements; authorizing certain law enforcement units to
13 issue certain waivers under certain circumstances; prohibiting junk dealers and
14 scrap metal processors from purchasing a catalytic converter except under
15 certain circumstances; prohibiting junk dealers and scrap metal processors from
16 purchasing cemetery urns, grave markers, and certain other items except under
17 certain circumstances; authorizing State or local law enforcement personnel to
18 request information from certain records under certain circumstances;
19 authorizing a State or local law enforcement agency to issue a certain hold
20 notice under certain circumstances; ~~establishing that certain items of junk or~~
21 ~~scrap metal are subject to a certain holding period~~; exempting certain items
22 acquired from certain entities from ~~a certain holding requirement~~ record and
23 reporting requirements; authorizing certain law enforcement personnel to
24 enforce this Act; establishing certain penalties; altering a certain definition;
25 providing that this Act may not be construed to preempt a certain entity from

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.



enacting and enforcing certain measures; making this Act an emergency measure; and generally relating to junk dealers and scrap metal processors.

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

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

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

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

Article – Business Regulation

12–102.

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

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

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

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

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

17–1001.

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

(e) “Junk” or “scrap metal” includes:

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

(i) aluminum;

(ii) babbitt metal;

(iii) brass;

(iv) bronze;

(v) light copper;

(vi) heavy copper;

(vii) lead;

(viii) low carbon chrome;

(ix) low carbon manganese;

(x) molybdenum;

(xi) monel metal;

(xii) pewter;

(xiii) nickel;

(XIV) STAINLESS STEEL;

[(xiv)] **(XV)** tin;

[(xv)] **(XVI)** vanadium; [or]

[(xvi)] ~~**(XVII)**~~ **(XVII)** zinc;

(XVIII) PLATINUM;

(XIX) GOLD;

(XX) RHODIUM; OR

(XXI) OTHER NONFERROUS METALS; AND

- [(2) stoves;
- (3) plumbing fixtures and supplies;
- (4) electrical fixtures and wiring;
- (5) gas fixtures and appliances;
- (6) pipes;
- (7) locks;
- (8) used railroad equipment;
- (9) used farm machinery; and
- (10) any other similar used material.]

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

(I) CATALYTIC CONVERTERS;

(II) METAL BLEACHERS;

(III) HARD-DRAWN COPPER;

(IV) METAL BEER KEGS;

(V) CEMETERY URNS;

(VI) GRAVE MARKERS; AND

**(VII) ANY OTHER USED ARTICLES ~~COMMONLY ASSOCIATED~~
~~WITH OR~~ OWNED BY A PUBLIC UTILITY INCLUDING:**

1. GUARDRAILS;

2. MANHOLE COVERS;

3. METAL LIGHT POLES;

4. TREE GRATES;

5. WATER METERS; AND

1 **6. STREET SIGNS.**

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

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

6 (g) **“PRIMARY LAW ENFORCEMENT UNIT” MEANS THE DEPARTMENT OF**
7 **STATE POLICE, A POLICE DEPARTMENT, OR SHERIFF, AS DESIGNATED BY**
8 **RESOLUTION OF THE COUNTY OR MUNICIPAL GOVERNING BODY IN THE COUNTY**
9 **IN WHICH THE LICENSE OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS**
10 **HELD.**

11 17-1010.

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

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

19 (2) The description shall include:

20 (i) the date of purchase;

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

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

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

26 (v) the name of any consignee.]

27 17-1011.

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

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

- 1 (i) is made at the time of the purchase; and
- 2 (ii) includes:
- 3 1. a description of the junk or scrap metal purchased;
- 4 2. the name and address of the seller;
- 5 3. the license tag number of any vehicle used; and
- 6 4. the date and time of the purchase; and
- 7 (2) for each sale of junk or scrap metal, shows the name and address of
- 8 the buyer.

9 (b) The records shall be open to inspection by State or local law enforcement

10 personnel for the jurisdiction where the place of business of the junk dealer or scrap

11 metal processor is located.]

12 (A) (1) **THIS SECTION APPLIES TO ALL JUNK DEALERS AND SCRAP**

13 **METAL PROCESSORS DOING BUSINESS IN THE STATE, INCLUDING NONRESIDENT**

14 **JUNK DEALERS, NONRESIDENT SCRAP METAL PROCESSORS, AND JUNK DEALERS**

15 **AND SCRAP METAL PROCESSORS WHO ARE RESIDENTS OF THE COUNTIES**

16 **LISTED IN § 17-1002(A) OF THIS SUBTITLE.**

17 (2) **THIS SECTION APPLIES TO AN AUTOMOTIVE DISMANTLER AND**

18 **RECYCLER OR SCRAP METAL PROCESSOR LICENSED UNDER TITLE 15,**

19 **SUBTITLE 5 OF THE TRANSPORTATION ARTICLE IF THE AUTOMOTIVE**

20 **DISMANTLER AND RECYCLER OR SCRAP METAL PROCESSOR:**

21 (I) **CONDUCTS BUSINESS AS A LICENSED JUNK DEALER OR**

22 **SCRAP METAL PROCESSOR; OR**

23 (II) **ACQUIRES VEHICLE PARTS THAT QUALIFY AS JUNK OR**

24 **SCRAP METAL AS DEFINED UNDER § 17-1001(E) OF THIS SUBTITLE.**

25 (3) **THIS SECTION DOES NOT APPLY TO AN AUTOMOTIVE**

26 **DISMANTLER AND RECYCLER OR SCRAP PROCESSOR THAT ONLY ACQUIRES**

27 **WHOLE VEHICLES FOR THE PURPOSE OF DISMANTLING, DESTROYING, OR**

28 **SCRAPPING THEM FOR THE BENEFIT OF THEIR PARTS OR THE MATERIALS IN**

29 **THEM.**

30 (B) (1) **FOR EACH PURCHASE OF JUNK OR SCRAP METAL IN THE**

31 **STATE, A JUNK DEALER OR SCRAP METAL PROCESSOR SHALL KEEP AN**

32 **ACCURATE RECORD IN ENGLISH.**

(2) THE RECORD SHALL STATE:

(I) THE DATE AND TIME OF PURCHASE;

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

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

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

~~3.~~ 2. IF PAYMENT IS BASED ON WEIGHT, THE WEIGHT OF EACH TYPE AND GRADE OF JUNK OR SCRAP METAL;

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

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

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

(VI) THE SIGNATURE OF:

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

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

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

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

2. IDENTIFICATION INFORMATION ABOUT THE INDIVIDUAL ~~THAT:~~

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

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

~~(3) IF THE PREVIOUS USE OF THE JUNK OR SCRAP METAL AS REQUIRED BY PARAGRAPH (2)(H)1 OF THIS SUBSECTION IS UNKNOWN, THE JUNK DEALER OR SCRAP METAL PROCESSOR SHALL MAKE A GOOD FAITH EFFORT TO DESCRIBE THE APPARENT OR PREVIOUS USE IF THE JUNK OR SCRAP METAL IS IDENTIFIABLE.~~

~~(4)~~ (3) THE RECORDS REQUIRED UNDER THIS SUBSECTION SHALL BE KEPT IN ELECTRONIC FORM.

~~(5)~~ (4) (I) THE SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE JUNK DEALER OR SCRAP METAL PROCESSOR SHALL SUBMIT A COPY OF EACH RECORD REQUIRED UNDER THIS SUBSECTION ELECTRONICALLY TO THE PRIMARY LAW ENFORCEMENT UNIT BY THE END OF EACH BUSINESS DAY, IN A FORMAT THAT IS ACCEPTABLE TO CAN BE SUCCESSFULLY RECEIVED BY THE RECEIVING PRIMARY LAW ENFORCEMENT UNIT.

(II) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE CONSTRUED TO REQUIRE A JUNK DEALER OR SCRAP METAL PROCESSOR TO INCUR ANY ADDITIONAL EXPENSE TO COMPLY WITH THE REQUIREMENTS OF THIS PARAGRAPH.

~~(6)~~ (5) A COPY OF A RECORD SUBMITTED UNDER PARAGRAPH ~~(5)~~ (4) OF THIS SUBSECTION:

(I) SHALL BE KEPT CONFIDENTIAL;

(II) IS NOT A PUBLIC RECORD; AND

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

~~(7)~~ (6) THE PRIMARY LAW ENFORCEMENT UNIT MAY DESTROY THE COPY OF A RECORD SUBMITTED UNDER PARAGRAPH ~~(5)~~ (4) OF THIS SUBSECTION AFTER 1 YEAR FROM THE DATE THAT THE PRIMARY LAW ENFORCEMENT UNIT RECEIVES THE COPY.

~~(8)~~ (7) (I) THE PRIMARY LAW ENFORCEMENT UNIT MAY WAIVE THE HOLDING OF ELECTRONIC RECORDS UNDER PARAGRAPH ~~(4)~~ (3) OF THIS SUBSECTION OR THE SUBMISSION OF ELECTRONIC RECORDS UNDER

1 PARAGRAPH ~~(5)~~ (4) OF THIS SUBSECTION BY A JUNK DEALER OR SCRAP METAL
2 PROCESSOR.

3 (II) ANY WAIVERS GRANTED UNDER SUBPARAGRAPH (I) OF
4 THIS PARAGRAPH SHALL BE LIMITED TO AUTHORIZING A JUNK DEALER OR
5 SCRAP METAL PROCESSOR TO:

6 1. EXTEND THE REPORTING DEADLINE UNDER
7 PARAGRAPH (5) OF THIS SUBSECTION FOR AN EXTRA DAY;

8 2. HOLD WRITTEN RECORDS ~~OR TO~~; OR

9 3. SUBMIT RECORDS BY FACSIMILE OR BY MAIL.

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

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

15 (3) THE RECORDS KEPT IN ACCORDANCE WITH THIS SUBSECTION
16 SHALL BE OPEN TO INSPECTION DURING BUSINESS HOURS BY STATE OR LOCAL
17 LAW ENFORCEMENT PERSONNEL ~~FOR THE JURISDICTION WHERE THE PLACE OF~~
18 ~~BUSINESS OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS LOCATED FOR~~
19 AN INVESTIGATION OF A SPECIFIC CRIME INVOLVING THE MATERIALS LISTED
20 UNDER § 17-1001(E) OF THIS SUBTITLE.

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

24 (2) A STATE JUNK LICENSEE MAY NOT PURCHASE A CATALYTIC
25 CONVERTER FROM AN INDIVIDUAL UNLESS THE INDIVIDUAL, AT THE TIME OF
26 PURCHASE, PROVIDES IDENTIFICATION AS:

27 (I) A LICENSED AUTOMOTIVE DISMANTLER AND RECYCLER
28 OR SCRAP PROCESSOR; OR

29 (II) AN AGENT OR EMPLOYEE OF A LICENSED COMMERCIAL
30 ENTERPRISE.

31 (3) A STATE JUNK LICENSEE MAY NOT PURCHASE A CEMETERY
32 URN, GRAVE MARKER, OR ANY OTHER ITEM LISTED UNDER § 17-1001(E)(2) OF
33 THIS SUBTITLE FROM AN INDIVIDUAL UNLESS THE INDIVIDUAL, AT THE TIME OF

PURCHASE, PROVIDES APPROPRIATE AUTHORIZATION FROM A RELEVANT BUSINESS OR UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT SPECIFICALLY AUTHORIZING THE INDIVIDUAL TO CONDUCT THE TRANSACTION.

(E) STATE OR LOCAL LAW ENFORCEMENT PERSONNEL MAY REQUEST INFORMATION FROM THE RECORDS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION PURSUANT TO AN INVESTIGATION ~~IN THE AREA WHERE THE BUSINESS OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS LOCATED~~ OF A SPECIFIC CRIME INVOLVING THE MATERIALS LISTED UNDER § 17-1001(E) OF THIS SUBTITLE.

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

~~(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE HOLD REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION DOES THE RECORD AND REPORTING REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO AN ITEM THAT IS ACQUIRED FROM:~~

~~1.~~(1) A LICENSED JUNK DEALER OR SCRAP METAL PROCESSOR;

~~2.~~(2) A UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT; OR

~~3.~~(3) A COMMERCIAL ENTERPRISE WITH WHOM THE JUNK DEALER OR SCRAP METAL PROCESSOR HAS ESTABLISHED A DOCUMENTED ACCOUNT OR BUSINESS RELATIONSHIP.

~~(II) A JUNK DEALER OR SCRAP METAL PROCESSOR SHALL KEEP A RECORD OF ITEMS THAT ARE EXEMPT FROM THE HOLD REQUIREMENT IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH.~~

(3) (I) IF A STATE OR LOCAL LAW ENFORCEMENT AGENCY HAS REASONABLE CAUSE TO BELIEVE THAT JUNK OR SCRAP METAL THAT IS IN THE POSSESSION OF A JUNK DEALER OR SCRAP METAL PROCESSOR IS STOLEN, THE LAW ENFORCEMENT AGENCY MAY ISSUE A WRITTEN HOLD NOTICE.

(II) THE WRITTEN HOLD NOTICE SHALL:

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

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

6 3. SPECIFY THE TIME PERIOD FOR THE HOLD, NOT
7 TO EXCEED ~~30~~ 15 DAYS.

8 (III) ON RECEIPT OF A WRITTEN HOLD NOTICE FROM A LAW
9 ENFORCEMENT AGENCY, A JUNK DEALER OR SCRAP METAL PROCESSOR MAY
10 NOT PROCESS OR REMOVE FROM THE JUNK DEALER'S OR SCRAP METAL
11 PROCESSOR'S PLACE OF BUSINESS BEFORE THE END OF THE HOLD PERIOD ANY
12 ITEMS OF JUNK OR SCRAP METAL IDENTIFIED IN THE HOLD NOTICE, UNLESS
13 THE ITEM IS RELEASED BY THE LAW ENFORCEMENT AGENCY OR BY COURT
14 ORDER.

15 (G) LOCAL LAW ENFORCEMENT PERSONNEL OF THE COUNTY WHERE
16 THE PLACE OF BUSINESS OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS
17 LOCATED OR WHERE THE JUNK OR SCRAP METAL WAS PURCHASED MAY
18 ENFORCE THIS SECTION.

19 (H) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
20 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

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

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

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

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