

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 32

(Senators DeGrange and Astle)

Finance

Economic Matters

Junk Dealers and Scrap Metal Processors - Required Records

This emergency bill modifies the definition of junk and scrap metal and alters recordkeeping requirements for junk dealers and scrap metal processors that operate in the State. The bill applies to all junk dealers and scrap metal processors in the State, including those operating in jurisdictions that are generally exempted from statewide licensing and recordkeeping requirements.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Potential meaningful increase in expenditures and administrative burden due to recordkeeping requirements for municipalities that collect and sell scrap metal. Potential minimal increase in expenditures related to enforcement. Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill amends the definition of junk or scrap metal to include articles made wholly or substantially of enumerated metals and alloys, while repealing its applicability to certain fixtures and equipment and adding other articles. The list is expanded to include stainless steel, platinum, gold, rhodium, and other nonferrous metals. However, the bill specifies that transactions that include gold and platinum are not subject to requirements for secondhand precious metal object dealers.

The definition of articles is expanded to include used articles made of ferrous or nonferrous metal – specifically catalytic converters, metal bleachers, hard-drawn copper, metal beer kegs, cemetery urns, and grave markers. Other used materials owned by public utilities are included as well, such as guard rails, manhole covers, metal light poles, tree grates, water meters, and street signs. Requirements do not apply to beverage or food cans.

A State junk metal dealer or scrap metal provider may only purchase a cemetery urn, grave marker, or any of the other used articles made of either ferrous or nonferrous metal listed above under specified circumstances. The individual selling the items must, at the time of the purchase, provide appropriate authorization from a relevant business or unit of federal, State, or local government specifically authorizing the individual to conduct the transaction.

A State junk metal dealer or scrap metal provider may not purchase a catalytic converter from a seller unless that individual is a licensed automotive dismantler and recycler or scrap processor, or an employee of a licensed commercial enterprise.

The bill repeals existing recordkeeping requirements for resident and nonresident junk dealers and scrap metal processors in favor of requirements that apply to all such persons doing business in the State. For each purchase, a junk dealer or scrap metal processor has to keep a record in English that includes the date and time of the transaction; a description of the junk or scrap metal; the type and grade of the junk or scrap metal, including weight if applicable; the amount paid for the junk or scrap metal; the license tag number, make, and model of the vehicle used; the name and address of the seller; the signatures of the parties to the transaction; and other identifying information about the individual involved in the transaction that is obtained from a valid, State-issued photo ID.

The bill applies to automotive dismantlers, recyclers, and scrap processors if they conduct business as a licensed junk dealer or scrap metal processor or they acquire vehicle parts that qualify as junk or scrap metal. Such businesses that only acquire whole vehicles for the purpose of dismantling, destroying, or scrapping them for the benefit of their parts are excluded.

Each resident junk dealer or scrap metal processor is required to keep records for one year following a transaction, subject to review by State and local law enforcement as part of an investigation of a specific crime. A junk dealer and scrap metal processor must keep electronic transaction records unless waived from this requirement by the jurisdiction's primary law enforcement unit, which may occur under certain circumstances.

All records must be submitted to the law enforcement unit by the end of each business day. Records are confidential and may be destroyed by the law enforcement unit after one year. The primary law enforcement unit may extend the reporting deadline for a junk dealer or scrap metal processor by up to one day. Records of transactions must be sent in a format that can be successfully received by the primary law enforcement unit. The bill specifies that the electronic recordkeeping requirements may not be construed to require a junk dealer or scrap metal processor to incur any additional expense to comply with these provisions.

The recordkeeping and reporting requirements do not apply to an item that is acquired from a licensed junk dealer, a unit of federal, State, or local government, or a commercial enterprise with whom the junk dealer or scrap metal processor has established an account or other business relationship.

State or local law enforcement agencies are authorized to issue a written hold notice after providing reasonable cause to believe that the junk dealer or scrap metal processor is in possession of stolen items. The identified items may not be moved from the place of business unless authorized by law enforcement or court order. Notices must specify a time period for the hold and may not exceed 15 days.

Local law enforcement agencies are authorized to enforce recordkeeping provisions. A person who violates these provisions is guilty of a misdemeanor and subject to a fine of up to \$500 for a first offense and a fine of up to \$5,000 and/or imprisonment for up to one year for subsequent offenses.

Current Law: A junk dealer or scrap metal processor is a person who does business buying or selling articles made of metals and compounds enumerated in State law, including aluminum, brass, bronze, light copper, heavy copper, pewter, nickel, and tin. The law also extends to buyers and sellers of certain equipment and supplies, including plumbing and electrical fixtures, pipes, locks, railroad equipment, and farm machinery. A person is required to have a junk dealer or scrap metal processor license when doing business in the State. A person must have an agent license if buying or selling on behalf of a junk dealer or scrap metal processor. An applicant for a license must certify the name and business address to the clerk of the circuit court for the county with jurisdiction and pay the required license and issuing fee.

Each junk dealer or scrap metal processor who is a resident of the State is required to keep a written record in English made at the time of purchase that includes a description of the item, the name and address of the buyer and seller, the license tag of any vehicle used, and the date and time of the purchase. Records must be open to inspection by State or local law enforcement personnel at the place of business.

Nonresident junk dealers, scrap metal processors, or their agents are required to register all items in the county of purchase before transporting the item from the State. A description of the item must include the date of purchase; the license number of the buyer and seller, if applicable; the license tag number of the vehicle used; and the name of any consignee.

A person who violates the law relating to junk dealers and scrap metal processors is guilty of a misdemeanor and is subject to a fine of \$500 for each offense. Provisions do not generally apply in Baltimore City or Anne Arundel, Baltimore, Caroline, Carroll, Dorchester, Kent, Somerset, Washington, or Worcester counties; exempted jurisdictions vary in their regulatory requirements. Additional provisions apply in Calvert County.

Background: The price of copper increased from \$0.65 per pound in 2001 to over \$4.00 per pound in July 2008. The premium on copper has been linked to theft of catalytic converters, cemetery markers and memorial plaques, and destruction of irrigation systems.

During the month of October 2008 the price of copper fell more than \$1 per pound, and as of January 2009, the price of copper has dropped over 60% to about \$1.35 per pound. The decline in price in the United States is attributable to the collapse of the housing market and the credit crisis.

As of December 2008, 33 states had enacted legislation regulating scrap metal sales or explicitly criminalizing scrap metal theft. Legislation is varied but generally imposes enhanced criminal penalties for larceny of copper wiring and materials and/or expands recordkeeping requirements for its resale.

State Fiscal Effect: General fund revenues increase marginally for District Court cases resulting in monetary penalties, as fines for subsequent offenses exceed penalties under current law regulating junk dealers and scrap metal transactions and the recordkeeping requirements are expanded to all junk dealers and scrap metal processors doing business in the State.

General fund expenditures increase minimally as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2010 are estimated to range from \$23

to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$2,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including variable medical care and variable operating costs) is \$342 per month. Excluding all medical care, the average variable costs total \$164 per month.

Although the Department of State Police is designated as the primary law enforcement unit in certain counties, it can handle the recordkeeping requirements with existing resources.

Local Fiscal Effect: Revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Municipalities that sell scrap metal collected from residential households may be subject to this legislation. If not excluded from the scope of this bill, local expenditures increase to comply with the recordkeeping requirements. The City of Rockville sold about 98 tons of collected metal in fiscal 2008.

Expenditures increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$46 to \$141 per inmate in fiscal 2010.

Small Business Effect: Junk dealers and scrap metal processors are subject to additional recordkeeping requirements. The impact of the bill on small business varies depending on the extent of current regulation.

Additional Information

Prior Introductions: Similar bills were introduced in both houses in 2008. Different versions of SB 521 passed the House and Senate, but differences were not resolved by the conference committee. HB 727 passed the House but did not receive a hearing in the Senate Finance Committee.

Cross File: HB 207 is designated as a cross file; however, it is not identical.

Information Source(s): Allegany, Montgomery, Prince George's, and Talbot counties; cities of Baltimore, College Park, Frostburg, and Rockville; towns of Berlin and Bladensburg; Judiciary (Administrative Office of the Courts); Department of State

Police; Maryland Department of Transportation; National Conference of State Legislatures; Department of Legislative Services

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