

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 23

(Delegate Kullen, *et al.*)

Economic Matters

Finance

Junk Dealers and Scrap Metal Processors - Required Records

This 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 doing business in the State, including those operating in jurisdictions that are generally exempted from statewide licensing and recordkeeping requirements.

The bill takes effect July 1, 2009.

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.

The bill also specifies that junk and scrap metal transactions that include gold and platinum are not subject to requirements for secondhand precious metal object dealers.

The definition of included articles is also expanded to include street signs and guard rails; hard drawn copper electrical conductors, cables, or wire; aluminum conductors, cables, or wire; metal beer kegs; manhole covers; tree grates; metal light poles; cemetery urns; grave markers; catalytic converters; and other used materials owned by a public utility. Recordkeeping requirements apply to aluminum bleachers and metal kegs, but not beverage or food cans.

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. The recordkeeping requirements also apply to automotive dismantlers and recyclers and scrap metal processors, licensed by the Motor Vehicle Administration (MVA), who destroy or scrap any vehicle for the purpose of reselling any of its usable parts or otherwise acquire vehicles for the benefit of their parts or the materials in them.

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 – according to industry customs – of the junk or scrap metal, including its 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.

Each resident junk dealer or scrap metal processor is required to keep records for one year following a transaction, subject to review during normal business hours by State and local law enforcement. 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. All records must be submitted to the law enforcement unit by the end of each business day. The record must include the date and time of purchase, a description of the item, and whether the value of the item exceeds \$500. Records are confidential and may be destroyed by the law enforcement unit after one year.

State or local law enforcement 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 for five days from the date of the notice, unless authorized by law enforcement or court order.

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.

Businesses that dismantle, recycle, or process scrap automobiles must keep a complete record of all vehicles acquired. Proper records include the name and address of the person from whom the vehicle was acquired, the date on which it was acquired, and documentary evidence sufficient to prove ownership. Within 30 days of receipt of a vehicle, an automotive dismantler, recycler, or scrap processor must electronically notify MVA of the acquisition. After such notice, the vehicle may be dismantled or scrapped.

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: None designated; however, SB 32 and HB 207 are similar.

Information Source(s): Allegany, Montgomery, Prince George's, Talbot, and Wicomico counties; cities of Baltimore and Rockville; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of State Police; National Conference of State Legislatures; Department of Legislative Services

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