

HOUSE BILL 1261

C2

EMERGENCY BILL

0lr2581

By: **Delegates Sophocleus, Love, DeBoy, Eckardt, Glenn, Rudolph, and Wood**

Introduced and read first time: February 18, 2010

Assigned to: Economic Matters

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; preempting certain rights of certain counties and
7 municipalities; superseding certain laws of certain counties and municipalities;
8 providing for the applicability of the record keeping requirements; providing for
9 the form and contents of the records; requiring that certain records be kept
10 electronically; providing for the submission of certain records to certain law
11 enforcement units under certain circumstances; providing that certain
12 provisions may not be construed to require junk dealers and scrap metal
13 processors to incur certain additional expenses for complying with certain
14 record submission requirements; authorizing certain law enforcement units to
15 issue certain waivers under certain circumstances; prohibiting junk dealers and
16 scrap metal processors from purchasing a catalytic converter except under
17 certain circumstances; prohibiting junk dealers and scrap metal processors from
18 purchasing cemetery urns, grave markers, and certain other items except under
19 certain circumstances; authorizing State or local law enforcement personnel to
20 request information from certain records under certain circumstances;
21 authorizing a State or local law enforcement agency to issue a certain hold
22 notice under certain circumstances; exempting certain items acquired from
23 certain entities from certain record and reporting requirements; authorizing
24 certain law enforcement personnel to enforce this Act; establishing certain
25 penalties; altering a certain definition; making this Act an emergency measure;
26 and generally relating to junk dealers and scrap metal processors.

27 BY repealing and reenacting, with amendments,
28 Article – Business Regulation
29 Section 12–102(a), 17–1001(e), 17–1010, and 17–1011
30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2004 Replacement Volume and 2009 Supplement)

2 BY repealing and reenacting, without amendments,
3 Article – Business Regulation
4 Section 17–1001(a) and (f)
5 Annotated Code of Maryland
6 (2004 Replacement Volume and 2009 Supplement)

7 BY adding to
8 Article – Business Regulation
9 Section 17–1001(g)
10 Annotated Code of Maryland
11 (2004 Replacement Volume and 2009 Supplement)

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

14 **Article – Business Regulation**

15 12–102.

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

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

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

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

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

27 17–1001.

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

29 (e) **(1)** “Junk” or “scrap metal” includes:

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

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

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

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

- 10 1. CATALYTIC CONVERTERS;
- 11 2. METAL BLEACHERS;
- 12 3. HARD-DRAWN COPPER;
- 13 4. METAL BEER KEGS;
- 14 5. CEMETERY URNS;
- 15 6. GRAVE MARKERS; AND
- 16 7. ANY OTHER USED ARTICLES OWNED BY A PUBLIC
17 UTILITY INCLUDING:
 - 18 A. GUARDRAILS;
 - 19 B. MANHOLE COVERS;
 - 20 C. METAL LIGHT POLES;
 - 21 D. TREE GRATES;
 - 22 E. WATER METERS; AND
 - 23 F. STREET SIGNS.

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

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

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

10 17–1010.

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

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

18 (2) The description shall include:

19 (i) the date of purchase;

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

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

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

25 (v) the name of any consignee.]

26 17–1011.

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

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

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

- 1 (ii) includes:
- 2 1. a description of the junk or scrap metal purchased;
- 3 2. the name and address of the seller;
- 4 3. the license tag number of any vehicle used; and
- 5 4. the date and time of the purchase; and

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

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

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

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

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

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

24 **(III) ACQUIRES ARTICLES THAT ARE LISTED, OR MADE OF**
25 **METALS THAT ARE LISTED, IN § 17-1001(E) OF THIS SUBTITLE.**

26 **(3) THIS SECTION DOES NOT APPLY TO AN AUTOMOTIVE**
27 **DISMANTLER AND RECYCLER OR SCRAP METAL PROCESSOR THAT ONLY**
28 **ACQUIRES WHOLE VEHICLES FOR THE PURPOSE OF DISMANTLING,**
29 **DESTROYING, OR SCRAPPING THEM FOR THE BENEFIT OF THEIR PARTS OR THE**
30 **MATERIALS IN THEM.**

1 **(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
2 **SUBSECTION, THE SECTION PREEMPTS THE RIGHT OF A COUNTY OR**
3 **MUNICIPALITY TO REGULATE THE RESALE OF JUNK OR SCRAP METAL.**

4 **(II) THIS SECTION DOES NOT LIMIT THE POWER OF A**
5 **COUNTY OR MUNICIPALITY TO LICENSE JUNK DEALERS AND SCRAP METAL**
6 **PROCESSORS.**

7 **(III) THIS SECTION SUPERSEDES ANY EXISTING LAW OF A**
8 **COUNTY OR MUNICIPALITY THAT REGULATES THE RESALE OF JUNK OR SCRAP**
9 **METAL.**

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

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

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

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

17 **1. THE TYPE AND GRADE OF THE JUNK OR SCRAP**
18 **METAL; AND**

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

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

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

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

27 **(VI) THE SIGNATURE OF:**

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

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

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

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

7 **2. IDENTIFICATION INFORMATION ABOUT THE**
8 **INDIVIDUAL FROM A VALID STATE-ISSUED PHOTO ID THAT PROVIDES A**
9 **PHYSICAL DESCRIPTION OF THE INDIVIDUAL, INCLUDING THE SEX, RACE, ANY**
10 **DISTINGUISHING FEATURES, AND APPROXIMATE AGE, HEIGHT, AND WEIGHT OF**
11 **THE INDIVIDUAL.**

12 **(3) THE RECORDS REQUIRED UNDER THIS SUBSECTION SHALL BE**
13 **KEPT IN ELECTRONIC FORM.**

14 **(4) (I) SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH,**
15 **THE JUNK DEALER OR SCRAP METAL PROCESSOR SHALL SUBMIT A COPY OF**
16 **EACH RECORD REQUIRED UNDER THIS PARAGRAPH TO THE PRIMARY LAW**
17 **ENFORCEMENT UNIT IN ACCORDANCE WITH SUBPARAGRAPHS (II) AND (III) OF**
18 **THIS PARAGRAPH.**

19 **(II) A JUNK DEALER OR SCRAP METAL PROCESSOR SHALL**
20 **SUBMIT A RECORD BY TRANSMITTING A COPY OF THE RECORDS**
21 **ELECTRONICALLY, IN A FORMAT ACCEPTABLE TO THE RECEIVING PRIMARY LAW**
22 **ENFORCEMENT UNIT, BY THE END OF EACH BUSINESS DAY.**

23 **(III) EACH COPY OF A RECORD SUBMITTED TO THE PRIMARY**
24 **LAW ENFORCEMENT UNIT SHALL INCLUDE:**

25 **1. THE DATE AND TIME OF PURCHASE;**

26 **2. A DESCRIPTION OF THE JUNK OR SCRAP METAL,**
27 **INCLUDING ITS WEIGHT IF PAYMENT IS BASED ON WEIGHT; AND**

28 **3. WHETHER THE AMOUNT PAID OR OTHER**
29 **CONSIDERATION FOR THE JUNK OR SCRAP METAL EXCEEDS \$500.**

30 **(IV) THE PROVISIONS OF SUBPARAGRAPHS (I), (II), AND (III)**
31 **OF THIS PARAGRAPH MAY NOT BE CONSTRUED TO REQUIRE A JUNK DEALER OR**
32 **SCRAP METAL PROCESSOR TO INCUR ANY ADDITIONAL EXPENSE TO COMPLY**
33 **WITH THE REQUIREMENTS OF THIS PARAGRAPH.**

1 **(5) A COPY OF A RECORD SUBMITTED UNDER PARAGRAPH (4) OF**
2 **THIS SUBSECTION:**

3 **(I) SHALL BE KEPT CONFIDENTIAL;**

4 **(II) IS NOT A PUBLIC RECORD; AND**

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

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

11 **(7) (I) THE PRIMARY LAW ENFORCEMENT UNIT MAY WAIVE**
12 **THE HOLDING OF ELECTRONIC RECORDS UNDER PARAGRAPH (3) OF THIS**
13 **SUBSECTION OR THE SUBMISSION OF ELECTRONIC RECORDS UNDER**
14 **PARAGRAPH (4) OF THIS SUBSECTION BY A JUNK DEALER OR SCRAP METAL**
15 **PROCESSOR.**

16 **(II) ANY WAIVERS GRANTED UNDER SUBPARAGRAPH (I) OF**
17 **THIS PARAGRAPH SHALL BE LIMITED TO AUTHORIZING A JUNK DEALER OR**
18 **SCRAP METAL PROCESSOR TO:**

19 **1. EXTEND THE REPORTING DEADLINE UNDER**
20 **PARAGRAPH (5) OF THIS SUBSECTION FOR AN EXTRA DAY;**

21 **2. HOLD WRITTEN RECORDS; OR**

22 **3. SUBMIT RECORDS BY FACSIMILE OR BY MAIL.**

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

25 **(2) EACH JUNK DEALER OR SCRAP METAL PROCESSOR SHALL**
26 **KEEP THE RECORDS REQUIRED BY SUBSECTION (B) OF THIS SECTION FOR**
27 **1 YEAR AFTER THE DATE OF THE TRANSACTION.**

28 **(3) THE RECORDS KEPT IN ACCORDANCE WITH THIS SUBSECTION**
29 **SHALL BE OPEN TO INSPECTION DURING BUSINESS HOURS BY STATE OR LOCAL**
30 **LAW ENFORCEMENT PERSONNEL FOR AN INVESTIGATION OF A SPECIFIC CRIME**
31 **INVOLVING THE MATERIALS LISTED UNDER § 17-1001(E) OF THIS SUBTITLE.**

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

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

7 **(I) A LICENSED AUTOMOTIVE DISMANTLER AND RECYCLER**
8 **OR SCRAP METAL PROCESSOR; OR**

9 **(II) AN AGENT OR EMPLOYEE OF A LICENSED COMMERCIAL**
10 **ENTERPRISE.**

11 **(3) A STATE JUNK LICENSEE MAY NOT PURCHASE A CEMETERY**
12 **URN, GRAVE MARKER, OR ANY OTHER ITEM LISTED UNDER § 17-1001(E)(2) OF**
13 **THIS SUBTITLE FROM AN INDIVIDUAL UNLESS THE INDIVIDUAL, AT THE TIME OF**
14 **PURCHASE, PROVIDES APPROPRIATE AUTHORIZATION FROM A RELEVANT**
15 **BUSINESS OR UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT**
16 **SPECIFICALLY AUTHORIZING THE INDIVIDUAL TO CONDUCT THE TRANSACTION.**

17 **(E) STATE OR LOCAL LAW ENFORCEMENT PERSONNEL MAY REQUEST**
18 **INFORMATION FROM THE RECORDS REQUIRED UNDER SUBSECTION (B) OF THIS**
19 **SECTION PURSUANT TO AN INVESTIGATION OF A SPECIFIC CRIME INVOLVING**
20 **THE MATERIALS LISTED UNDER § 17-1001(E) OF THIS SUBTITLE.**

21 **(F) THE RECORD AND REPORTING REQUIREMENTS OF SUBSECTION (B)**
22 **OF THIS SECTION DO NOT APPLY TO AN ITEM THAT IS ACQUIRED FROM:**

23 **(1) A LICENSED JUNK DEALER OR SCRAP METAL PROCESSOR;**

24 **(2) A UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT; OR**

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

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

32 **(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 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 this Act is an emergency
25 measure, is necessary for the immediate preservation of the public health or safety,
26 has been passed by a ye and nay vote supported by three-fifths of all the members
27 elected to each of the two Houses of the General Assembly, and shall take effect from
28 the date it is enacted.