

HOUSE BILL 1144

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By: **Delegates Carter, Burns, Cane, Cardin, Carr, Conaway, Dwyer, Glenn, Hough, McConkey, Nathan–Pulliam, B. Robinson, Stukes, Swain, Tarrant, and Wood**

Introduced and read first time: February 8, 2013

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Junk Dealers and Scrap Metal Processors – Shopping Carts and Metal Piping**

3 FOR the purpose of prohibiting a junk dealer or scrap metal processor from
4 purchasing from an individual a shopping cart, flatbed cart, or similar wheeled
5 device under certain circumstances, or copper or other metal piping unlawfully
6 taken from a house; providing for certain penalties; requiring that a person be
7 barred permanently from selling material to a junk dealer or scrap metal
8 processor under certain circumstances; providing for a defense against a certain
9 action; making a stylistic change; and generally relating to junk dealers and
10 scrap metal processors.

11 BY repealing and reenacting, with amendments,
12 Article – Business Regulation
13 Section 17–1011
14 Annotated Code of Maryland
15 (2010 Replacement Volume and 2012 Supplement)

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

18 **Article – Business Regulation**

19 17–1011.

20 (a) (1) This section applies to all junk dealers and scrap metal processors
21 doing business in the State, including nonresident junk dealers and nonresident scrap
22 metal processors.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) This section applies to an automotive dismantler and recycler or
2 scrap metal processor licensed under Title 15, Subtitle 5 of the Transportation Article
3 if the automotive dismantler and recycler or scrap metal processor:

4 (i) conducts business as a licensed junk dealer or scrap metal
5 processor;

6 (ii) acquires vehicle parts that qualify as junk or scrap metal as
7 defined under § 17–1001(e) of this subtitle; or

8 (iii) acquires articles that are listed, or made of metals that are
9 listed, in § 17–1001(e) of this subtitle.

10 (3) This section does not apply to:

11 (i) an automotive dismantler and recycler or scrap metal
12 processor that only acquires whole vehicles for the purpose of dismantling, destroying,
13 or scrapping them for the benefit of their parts or the materials in them; or

14 (ii) a person that buys scrap metal to use as raw material to
15 produce 1,000,000 tons of steel or more in the State per calendar year.

16 (4) (i) Except as provided in subparagraph (ii) of this paragraph,
17 this section preempts the right of a county or municipality to regulate the resale of
18 junk or scrap metal.

19 (ii) This section does not limit the power of a county or
20 municipality to license junk dealers and scrap metal processors.

21 (iii) This section supersedes any existing law of a county or
22 municipality that regulates the resale of junk or scrap metal.

23 (b) (1) For each purchase of junk or scrap metal in the State, a junk
24 dealer or scrap metal processor shall keep an accurate record in English.

25 (2) The record shall state:

26 (i) the date and time of purchase;

27 (ii) a description of the junk or scrap metal purchased,
28 including:

29 1. the type and grade of the junk or scrap metal; and

30 2. if payment is based on weight, the weight of each type
31 and grade of junk or scrap metal;

1 (iii) the amount paid or other consideration for the junk or scrap
2 metal;

3 (iv) the registration plate number, make, and model of any
4 vehicle used;

5 (v) the name and address of the individual from whom the junk
6 or scrap metal is acquired;

7 (vi) the signature of:

8 1. the individual from whom the junk or scrap metal is
9 acquired; and

10 2. the junk dealer, scrap metal processor, or employee
11 who accepted the junk or scrap metal; and

12 (vii) for each individual from whom the junk dealer or scrap
13 metal processor acquires junk or scrap metal:

14 1. the date of birth and driver's license number of the
15 individual; or

16 2. identification information about the individual from a
17 valid State-issued photo ID that provides a physical description of the individual,
18 including the sex, race, any distinguishing features, and approximate age, height, and
19 weight of the individual.

20 (3) The records required under this subsection shall be kept in
21 electronic form.

22 (4) (i) Subject to subparagraph (iv) of this paragraph, the junk
23 dealer or scrap metal processor shall submit a copy of each record required under this
24 paragraph to the primary law enforcement unit in accordance with subparagraphs (ii)
25 and (iii) of this paragraph.

26 (ii) A junk dealer or scrap metal processor shall submit a record
27 by transmitting a copy of the records electronically, in a format acceptable to the
28 receiving primary law enforcement unit, by the end of the first business day following
29 the date of the transaction.

30 (iii) Each copy of a record submitted to the primary law
31 enforcement unit shall include:

32 1. the date and time of purchase;

1 2. a description of the junk or scrap metal, including its
2 weight if payment is based on weight;

3 3. whether the amount paid or other consideration for
4 the junk or scrap metal exceeds \$500;

5 4. the registration plate number of any vehicle used by
6 the individual from whom the junk or scrap metal is acquired;

7 5. the name and address of the individual from whom
8 the junk or scrap metal is acquired;

9 6. the date of birth and driver's license number of the
10 individual from whom the junk or scrap metal is acquired;

11 7. identification information about the individual from a
12 valid State-issued photo ID that provides a physical description of the individual,
13 including the sex, race, age, height, and weight of the individual; and

14 8. an electronic scan or photocopy of the valid
15 State-issued photo ID under item 7 of this subparagraph.

16 (iv) The provisions of subparagraphs (i), (ii), and (iii) of this
17 paragraph may not be construed to require a junk dealer or scrap metal processor to
18 incur a substantial financial burden to comply with the requirements of this
19 paragraph.

20 (5) A copy of a record submitted under paragraph (4) of this
21 subsection:

22 (i) shall be kept confidential;

23 (ii) is not a public record; and

24 (iii) is not subject to Title 10, Subtitle 6 of the State Government
25 Article.

26 (6) The primary law enforcement unit may destroy the copy of a record
27 submitted under paragraph (4) of this subsection after 1 year from the date that the
28 primary law enforcement unit receives the copy.

29 (7) (i) The primary law enforcement unit may waive the holding of
30 electronic records under paragraph (3) of this subsection or the submission of
31 electronic records under paragraph (4) of this subsection by a junk dealer or scrap
32 metal processor.

1 (ii) Any waivers granted under subparagraph (i) of this
2 paragraph shall be limited to authorizing a junk dealer or scrap metal processor to:

3 1. extend the reporting deadline under paragraph (4) of
4 this subsection for an extra day;

5 2. hold written records; or

6 3. submit records by facsimile or by mail.

7 (c) (1) This subsection applies to junk dealers and scrap metal processors
8 who are residents of the State.

9 (2) Each junk dealer or scrap metal processor shall keep the records
10 required by subsection (b) of this section for 1 year after the date of the transaction.

11 (3) The records kept in accordance with this subsection shall be open
12 to inspection during business hours by State or local law enforcement personnel for an
13 investigation of a specific crime involving the materials listed under § 17–1001(e) of
14 this subtitle.

15 (d) (1) A junk dealer or scrap metal processor may not barter, buy,
16 exchange, or accept from a person any junk or scrap metal unless the junk dealer or
17 scrap metal processor keeps records and makes entries in them in accordance with
18 Part II of this subtitle.

19 (2) A junk dealer or scrap metal processor may not purchase a
20 catalytic converter from an individual unless the individual, at the time of purchase,
21 provides identification as:

22 (i) a licensed automotive dismantler and recycler or scrap metal
23 processor; or

24 (ii) an agent or employee of a licensed commercial enterprise.

25 (3) A junk dealer or scrap metal processor may not purchase **FROM AN**
26 **INDIVIDUAL:**

27 (I) a cemetery urn, grave marker, or any other item listed
28 under § 17–1001(e)(1)(ii) of this subtitle [from an individual], unless the individual, at
29 the time of purchase, provides appropriate authorization from a relevant business or
30 unit of federal, State, or local government specifically authorizing the individual to
31 conduct the transaction;

32 (II) **A SHOPPING CART, FLATBED CART, OR SIMILAR**
33 **WHEELED DEVICE THAT IS USED TO TRANSPORT PURCHASED MATERIALS FROM**

1 A BUSINESS AND THAT IS IDENTIFIABLE AS THE PROPERTY OF A BUSINESS,
2 UNLESS THE INDIVIDUAL, AT THE TIME OF PURCHASE, PROVIDES APPROPRIATE
3 AUTHORIZATION FROM A REPRESENTATIVE OF THE BUSINESS TO CONDUCT THE
4 TRANSACTION; OR

5 (III) COPPER OR OTHER METAL PIPING UNLAWFULLY TAKEN
6 FROM A HOUSE.

7 (4) THE ESTABLISHMENT BY A JUNK DEALER OR SCRAP METAL
8 PROCESSOR OF THE FACT THAT, BEFORE A SALE, THE JUNK DEALER OR SCRAP
9 METAL PROCESSOR MADE A GOOD FAITH EFFORT TO DETERMINE WHETHER THE
10 SELLER WAS BARRED FROM SELLING AND WHETHER THE ITEM WAS NOT
11 ALLOWED TO BE PURCHASED IS A DEFENSE AGAINST AN ACTION TAKEN FOR A
12 VIOLATION OF PARAGRAPH (3)(II) OR (III) OF THIS SUBSECTION.

13 (e) State or local law enforcement personnel may request information from
14 the records required under subsection (b) of this section pursuant to an investigation
15 of a specific crime involving the materials listed under § 17-1001(e) of this subtitle.

16 (f) (1) The record and reporting requirements of subsection (b) of this
17 section do not apply to an item that is acquired from:

18 (i) a licensed junk dealer or scrap metal processor;

19 (ii) a unit of federal, State, or local government; or

20 (iii) a commercial enterprise with a valid business license that
21 has entered into a written contract with a junk dealer or scrap metal processor who
22 has provided to the primary law enforcement unit:

23 1. the name and business address of the commercial
24 enterprise; and

25 2. the type of junk or scrap metal subject to the contract.

26 (2) (i) Subject to subparagraph (ii) of this paragraph, a contract
27 under paragraph (1)(iii) of this subsection shall be open to inspection by a local law
28 enforcement agency on the premises of the junk dealer or scrap metal processor during
29 business hours.

30 (ii) Notwithstanding any other law, a contract open to
31 inspection by a local law enforcement agency under subparagraph (i) of this paragraph
32 may not be open for public inspection without the consent of the junk dealer or scrap
33 metal processor.

1 (g) (1) If a State or local law enforcement agency has reasonable cause to
2 believe that junk or scrap metal that is in the possession of a junk dealer or scrap
3 metal processor is stolen, the law enforcement agency may issue a written hold notice.

4 (2) The written hold notice shall:

5 (i) identify the items of junk or scrap metal alleged to be stolen
6 and subject to hold;

7 (ii) inform the junk dealer or scrap metal processor of the hold
8 imposed on the items of junk or scrap metal; and

9 (iii) specify the time period for the hold, not to exceed 15 days.

10 (3) On receipt of a written hold notice from a law enforcement agency,
11 a junk dealer or scrap metal processor may not process or remove from the junk
12 dealer's or scrap metal processor's place of business before the end of the hold period
13 any items of junk or scrap metal identified in the hold notice, unless the item is
14 released by the law enforcement agency or by court order.

15 (h) Local law enforcement personnel of the county where the place of
16 business of the junk dealer or scrap metal processor is located or where the junk or
17 scrap metal was purchased may enforce this section.

18 (i) (1) A person who violates this section is guilty of a misdemeanor and
19 on conviction is subject to:

20 [(1)] (I) a fine not exceeding \$500 for a first offense; and

21 [(2)] (II) a fine not exceeding \$5,000 or imprisonment not exceeding 1
22 year or both for a subsequent offense.

23 (2) IN ADDITION TO BEING SUBJECT TO THE PENALTIES
24 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, A PERSON SHALL BE
25 BARRED PERMANENTLY FROM SELLING ANY MATERIAL TO A JUNK DEALER OR
26 SCRAP METAL PROCESSOR IN THE STATE IF THE PERSON IS CONVICTED OF A
27 CRIME ARISING OUT OF THE PERSON'S SALE OR ATTEMPTED SALE OF:

28 (I) COPPER OR OTHER METAL PIPING UNLAWFULLY TAKEN
29 FROM A HOUSE; OR

30 (II) WITHOUT WRITTEN AUTHORIZATION, A SHOPPING
31 CART, FLATBED CART, OR SIMILAR WHEELED DEVICE IDENTIFIABLE AS THE
32 PROPERTY OF A BUSINESS.

1 **(3) THE LICENSE OF A JUNK DEALER OR SCRAP METAL**
2 **PROCESSOR MAY BE SUSPENDED OR REVOKED IF THE JUNK DEALER OR SCRAP**
3 **METAL PROCESSOR IS CONVICTED OF VIOLATING SUBSECTION (D)(3)(II) OR (III)**
4 **OF THIS SECTION.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2013.