

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1144
Economic Matters

(Delegate Carter, *et al.*)

Junk Dealers and Scrap Metal Processors - Shopping Carts and Metal Piping

This bill prohibits a junk dealer or scrap metal processor from purchasing from an individual under specified circumstances (1) shopping carts or similar wheeled devices and (2) specified copper or other metal piping.

Fiscal Summary

State Effect: The application of existing penalties is not anticipated to materially affect State finances.

Local Effect: The application of existing penalties is not anticipated to materially affect government finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: A junk dealer or scrap metal processor may not purchase from an individual (1) copper or other metal piping unlawfully taken from a house or (2) a shopping cart, flatbed cart, or similar identifiable property of a business, unless the individual provides appropriate authorization from a representative of the business to conduct the transaction at the time of purchase. The license of a junk dealer or scrap metal processor may be suspended or revoked if the junk dealer or scrap metal processor is convicted of violating these provisions. However, the establishment by a junk dealer or scrap metal processor that he or she made a good faith effort to determine whether the seller was barred from selling and whether the item was not allowed to be purchased is a defense against an action taken for a violation under the bill.

In addition to being subject to the civil and criminal penalties in current law, a person convicted of a crime arising out of the person's sale or attempted sale of the specified items is barred permanently from selling any material to a junk dealer or scrap metal processor in the State.

Current Law: In general, a person must have a junk dealer or scrap metal processor license whenever the person does business as a junk dealer or scrap metal processor in the State. 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, among others.

All junk dealers and scrap metal processors, including specified automotive dismantlers, recyclers, and scrap processors who obtain only vehicle parts but not whole vehicles, must keep records of specific identifying information for one year following a transaction, subject to review by State and local law enforcement as part of an investigation of a specific crime.

All transaction records must be submitted electronically to the primary law enforcement unit by the end of the first business day following the date of the transaction. Each record submitted to the law enforcement unit must include (1) the date and time of purchase; (2) a description of the items and their weight, if applicable; (3) whether the amount paid for the items exceeds \$500; (4) the registration plate number of the seller's vehicle; (5) the name, address, driver's license number, date of birth, and physical description of the seller; and (6) an electronic scan or photocopy of the seller's State-issued identification card. The requirement to submit records electronically may not be construed to require licensees to incur a substantial financial burden. A junk dealer or scrap metal processor must keep electronic transaction records unless waived from this requirement by the jurisdiction's primary law enforcement unit.

If a law enforcement agency has reason to believe that an item obtained by a junk dealer or scrap metal processor is stolen, the agency is 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 item 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; the hold time may not exceed 15 days. A person who violates the recordkeeping and reporting requirements 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.

Theft of Shopping Carts

State law prohibits a person from (1) removing a wheeled cart or other similar device provided for the purpose of assembling or carrying purchased materials from a grocery

store, store, or market, including its parking facilities, without the permission of the owner or agent of the owner; (2) damaging any such cart or device; or (3) abandoning such a cart or device on the streets or alleys of the State. Violators are guilty of a misdemeanor, punishable by a fine of up to \$25 for each violation.

State law does permit a person to abandon a wheeled cart or other similar device on the parking facilities of the store or market from which the cart was obtained.

Under the theft statutes, a person convicted of theft of property or services valued at less than \$100 is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for 90 days and/or a \$500 fine. A person convicted of theft of property with a value of less than \$1,000 is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 18 months and/or a fine of \$500.

Background: High demand for metals such as copper and aluminum tend to encourage metal theft in the United States. The price of copper increased from \$0.65 per pound in 2001 to more than \$4.00 per pound by July 2008. The price has generally remained at or above \$3.50 per pound since 2010. The premium on copper has been linked to theft of catalytic converters, cemetery markers and memorial plaques, and copper wiring from utility property.

The Judiciary advises that there were 11 cases for wheeled cart violations in the District Court during fiscal 2011. There were no cases in fiscal 2012.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles, Montgomery, and Frederick counties; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2013
mm/mcr

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