

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 305

(Senator Eckardt, *et al.*)

Judicial Proceedings

Crimes - Theft of Scrap Metal

This bill prohibits a person from knowingly and willfully taking the “scrap metal” of another without authorization. A violator is guilty of either a misdemeanor or a felony and subject to fines and/or imprisonment, depending on the value of the scrap metal. A person convicted under the bill must either restore the scrap metal taken to the owner or pay the owner the value of the scrap metal, and if the theft causes damage to or destroys other property, must also pay the owner the value of repairs to or replacement of the damaged or destroyed property.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

Local Effect: Minimal increase in revenues and expenditures due to the bill’s penalty provisions.

Small Business Effect: Minimal.

Analysis

Bill Summary: For the purpose of the bill, “scrap metal” means copper, copper alloy, copper utility wire, bronze, aluminum, and any other nonferrous metal, alloy, or other mixture. It includes (1) housing fixtures such as downspouts, pipes, wiring, or flashing; (2) agricultural parts and equipment with copper wire or tubing including irrigation equipment; (3) metal marked with the initials of an electrical, telephone, cable, or other public utility; (4) utility access covers; (5) street light poles and fixtures; (6) road and bridge

guard rails; (7) highway or street signs; (8) water meter covers; (9) traffic signs and signals; (10) unused and undamaged building construction or utility materials consisting of copper, pipe, tubing, wiring, or aluminum wire; or (11) historical markers, grave markers, and vases.

In addition to the restoration requirement noted above, a person convicted under the bill is subject to the penalties listed below:

<u>Value of Scrap Metal</u>	<u>Maximum Penalty</u>
Less than \$1,000	Misdemeanor – 3 years imprisonment and/or a \$1,000 fine
At least \$1,000 and less than \$10,000	Felony – 15 years imprisonment and/or \$15,000 fine
At least \$10,000 and less than \$100,000	Felony – 20 years imprisonment and/or \$20,000 fine
\$100,000 or more	Felony – 30 years imprisonment and/or \$30,000 fine

Current Law: Unlawfully taking the property of another individual, possessing or asserting control over the property of another individual without authorization, or entering specified property without authorization are actions that are subject to a variety of criminal prohibitions and penalties, depending on the particular events and actions involved.

General Theft – A person may not, under specified circumstances (1) willfully or knowingly obtain or exert unauthorized control over property; (2) obtain control over property by willfully or knowingly using deception; (3) possess stolen property knowing that it has been stolen, or believing that it probably has been stolen; or (4) obtain control over property knowing that the property was lost, mislaid, or was delivered under a mistake as to the identity of the recipient or nature or amount of the property.

A violator is required to restore the owner's property or pay the owner the value of the property or services and is subject to the penalties listed below:

<u>Value of Property and/or Services</u>	<u>Maximum Penalty</u>
Less than \$100	Misdemeanor – 90 days imprisonment and/or a \$500 fine
Less than \$1,000	Misdemeanor – 18 months imprisonment and/or a \$500 fine
Less than \$1,000 (two or more prior convictions)	Misdemeanor – 5 years imprisonment and/or a \$5,000 fine
Between \$1,000 and \$10,000	Felony – 10 years imprisonment and/or \$10,000 fine
Between \$10,000 and \$100,000	Felony – 15 years imprisonment and/or \$15,000 fine
\$100,000 or more	Felony – 25 years imprisonment and/or \$25,000 fine

Background: High demand and prices 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 \$3.00 per pound since 2010 but has declined in recent months and is currently below \$2.75. The premium on copper has been linked to theft of catalytic converters, cemetery markers and memorial plaques, and copper wiring from utility property. Approximately 694,000 tons of scrap metal were recycled in Maryland in 2012.

State Fiscal Effect: General fund revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

General fund expenditures increase minimally as a result of the bill's incarceration penalties due to more people being committed to State correctional facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,100 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 State inmate (including variable health care costs) is about \$770 per month. Excluding all health care, the average variable costs total \$200 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be

served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

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

Expenditures increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland State Commission on Criminal Sentencing Policy; Office of the Public Defender; Maryland Department of Transportation; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510