

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1026
Finance

(Senator Feldman)

Business Regulation - Junkyards and Scrap Metal Processing Facilities

This bill alters the definitions of “junkyard” and “scrap metal processing facility,” as those terms apply to the location of such facilities near interstate and primary highways, and prohibits any other facility from purchasing scrap metal by weight across an on-site scale. The prohibition preempts and supersedes any conflicting local law. The bill also enhances existing criminal penalties for violations of the general State junk dealer and scrap metal processor law (not just highway-adjacent facilities), including potential imprisonment.

Fiscal Summary

State Effect: Assuming compliance and application in only a limited number of cases, the bill does not materially affect State finances or operations.

Local Effect: Assuming compliance and application in only a limited number of cases, the bill does not materially affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The definition of “junkyard” is altered to include a place of business that is maintained, operated, or used for:

- purchasing unprocessed metal, processed metal, wastepaper, or other junk by weight across an on-site scale;
- sorting, baling, separating, shearing, shredding, or torch preparation of metal; or

- any other form of scrap metal processing, including automobile flattening and crushing.

The definition of “scrap metal processing facility” is altered in a near-identical manner.

These definitions only apply in the context of facilities within 1,000 feet of interstate or primary highways.

Current Law: The facilities affected by the bill are regulated through a variety of State and local laws, as discussed below.

Junkyards and Related Facilities near Interstate or Primary Highways

In the context of facilities near interstate or primary highways, “junkyard” means an establishment or place of business that is maintained, operated, or used (1) for storing, keeping, buying, or selling junk; (2) for an automobile graveyard; or (3) as a garbage dump or sanitary fill. “Scrap metal processing facility” means an establishment (1) that has facilities for processing iron, steel, or nonferrous scrap metal and (2) the principal product of which is scrap iron, scrap steel, or nonferrous scrap for sale only for resmelting purposes.

Generally, unless licensed by the State Highway Administration (SHA), a person may not establish, operate, maintain, or expand any junkyard, automotive dismantler and recycler facility, or scrap metal processing facility, if any part of the junkyard or facility is within 1,000 feet of the nearest edge of the right-of-way of any interstate or primary highway and is visible from the main traveled way of that highway. SHA may not issue a license unless the junkyard or facility is:

- screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the highway;
- otherwise not visible from the main traveled way of the highway;
- located in an area that is zoned for industrial use under authority of local law; or
- located in an area that is not zoned for industrial use, but that is used for industrial activities as determined by SHA with the approval of the United States Secretary of Transportation under the federal Highway Beautification Act of 1965.

Licenses must be renewed annually. The fee for initial and renewal licenses is \$100, as established in regulation.

These provisions do not abrogate or affect any statute, ordinance, regulation, or resolution that is more restrictive in the regulation of junkyards, automotive dismantler and recycler facilities, or scrap metal processing facilities. Further, the provisions do not permit SHA to

preempt any zoning act or ordinance of any political subdivision. If a political subdivision later zones any area for a use that conflicts with a determination of SHA, then SHA's determination is void.

Enforcement and Penalties

If a junkyard, automotive dismantler and recycler facility, or scrap metal processing facility is in violation of the above provisions, SHA may apply for an injunction to a court of equity in the county where the junkyard or facility is located.

Any person who violates any of the above provisions or any rule or regulation adopted by SHA under them is guilty of a misdemeanor and on conviction is subject to a maximum penalty of a \$100 fine. After written notice, each day that a violation continues beyond the thirtieth day is a separate offense. These penalties are not altered by the bill.

Junk Dealers and Scrap Metal Processors Generally – State License Required

In general, a resident or nonresident person must have a junk dealer or scrap metal processor license whenever the person does business as such 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. Local law enforcement may enforce the laws related to junk dealers and scrap metal processors.

Civil and Criminal Penalties

Generally, a violation of the laws related to junk dealers and scrap metal processors is a misdemeanor and subject to a maximum penalty of a \$500 fine, per offense. Enhanced penalties exist for a violation of licensee recordkeeping requirements, which is a misdemeanor and subject to a maximum penalty of a \$500 fine for a first offense and a \$5,000 fine and/or one-year imprisonment for a second or subsequent offense. These penalties are enhanced by the bill.

Local Regulation of Junkyards and Related Facilities

Subject to specified conditions, the governing body of a county may adopt rules and regulations for the licensing, maintenance, and operation of "junkyards" in the county for specified purposes, including (1) protecting county residents from unpleasant and unwholesome conditions and neighborhoods and preserve the beauty and (2) esthetic value of rural or residential areas. For these purposes, "junkyard" means a public or private dump, automobile junkyard, automotive dismantler or recycler facility, scrap metal

processing facility, outdoor place where old motor vehicles are stored in quantity or dismantled, or lot on which refuse, trash, or junk is deposited.

Small Business Effect: The bill prohibits any facility other than a junkyard or scrap metal processor, as defined, from purchasing scrap metal by weight across an on-site scale within 1,000 feet of an interstate or primary highway. This may prohibit other types of small businesses from doing so. To the extent that those small businesses do not qualify for a junkyard or scrap metal processor license from SHA, they must either relocate outside of the 1,000 foot range in current law or alter the method through which they purchase scrap metal. Either option may be significant for a particular small business.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Public Safety and Correctional Services; Department of State Police; Governor's Office of Crime Control and Prevention; Maryland State Commission on Criminal Sentencing Policy; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

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