

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

Senate Bill 521

(Senator DeGrange, *et al.*)

Finance

Economic Matters

Junk Dealers and Scrap Metal Processors - Required Records

This bill modifies the definition of junk and scrap metal and alters recordkeeping requirements for junk dealers and scrap metal processors that operate in the State. The bill applies to all junk dealers and scrap metal processors in the State, including those operating in jurisdictions that are generally exempted from statewide licensing and recordkeeping requirements.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: Potential operational impact in counties that have designated the Department of State Police as the primary law enforcement unit for the jurisdiction. Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Potential minimal increase in expenditures related to enforcement. Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill amends the definition of junk or scrap metal to include articles made wholly or substantially of enumerated metals and alloys, while repealing its

applicability to certain fixtures and equipment. The list is expanded to include stainless steel, platinum, gold, rhodium, and nonferrous metals. The bill specifies that transactions that include gold and platinum are not subject to requirements for secondhand precious metal object dealers.

The definition of included articles is also expanded to include street signs and guard rails; hard drawn copper electrical conductors, cables or wire; aluminum conductors, cables, or wire; metal beer kegs; manhole covers; tree grates; metal light poles; catalytic converters; and other used materials associated with public utility maintenance. Requirements apply to aluminum bleachers and metal kegs, but not beverage or food cans.

The bill repeals existing recordkeeping requirements for resident and nonresident junk dealers and scrap metal processors in favor of requirements that apply to all such persons doing business in the State, with the exception of automotive dismantlers, recyclers, and scrap processors otherwise licensed by the Motor Vehicle Administration. For each purchase, a junk dealer or scrap metal processor has to keep a record in English that includes • the date and time of the transaction; • a description of the junk or scrap metal, including weight if applicable; • the amount paid for the junk or scrap metal; • the license tag number, make, and model of the vehicle used; • the name and address of the seller; • the signatures of the parties to the transaction; and • other identifying information about the individual involved in the transaction.

Each resident junk dealer or scrap metal processor is required to keep records for one year following a transaction, subject to review by State and local law enforcement. A junk dealer and scrap metal processor must keep electronic transaction records unless waived from this requirement by the jurisdiction's primary law enforcement unit. All records must be submitted to the law enforcement unit by the end of each business day. The record must include the date and time of purchase, a description of the item, and whether the value of the item exceeds \$500. Records are confidential and may be destroyed by the law enforcement unit after one year.

State or local law enforcement are 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 items may not be moved from the place of business for 10 days from the date of the notice, unless authorized by law enforcement or court order.

Local law enforcement agencies are authorized to enforce recordkeeping provisions. A person who violates these provisions 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.

Current Law: A junk dealer or scrap metal processor is a person who does business buying or selling articles made of metals and compounds enumerated in Maryland law, including aluminum, brass, bronze, light copper, heavy copper, pewter, nickel, and tin. The law also extends to buyers and sellers of certain equipment and supplies, including plumbing and electrical fixtures, pipes, locks, railroad equipment, and farm machinery.

A person is required to have a junk dealer or scrap metal processor license when doing business in the State. A person must have an agent license if buying or selling on behalf of a junk dealer or scrap metal processor. An applicant for a license must certify the name and business address to the clerk of the circuit court for the county with jurisdiction and pay the required license and issuing fee.

Each junk dealer or scrap metal processor who is a resident of the State is required to keep a written record in English made at the time of purchase that includes • a description of the item; • the name and address of the buyer and seller; • the license tag of any vehicle used; and • the date and time of the purchase. Records must be open to inspection by State or local law enforcement personnel at the place of business.

Nonresident junk dealers, scrap metal processors, or their agents are required to register all items in the county of purchase before transporting the item from the State. A description of the item must include • the date of purchase; • the license number of the buyer and seller, if applicable; • the license tag number of the vehicle used; and • the name of any consignee.

A person who violates the law relating to junk dealers and scrap metal processors is guilty of a misdemeanor and is subject to a fine of \$500 for each offense.

Provisions do not generally apply in Baltimore City or Anne Arundel, Baltimore, Caroline, Carroll, Dorchester, Kent, Somerset, Washington, or Worcester counties; exempted jurisdictions vary in their regulatory requirements. Additional provisions apply in Calvert County.

Background: The value of copper has multiplied with growing demand in the developing world for electric generation systems and building equipment. The price of copper has increased from \$0.65 per pound in 2001 to a current value approaching \$4.00 per pound. The premium on copper has been linked to theft of cemetery markers and memorial plaques, destruction of irrigation systems, and various attempts to scavenge materials from farms, utility systems, and abandoned buildings.

As of December 2007, 21 states had enacted legislation to specifically address copper theft. Legislation is varied but generally imposes enhanced criminal penalties for larceny of copper wiring and materials and/or expands recordkeeping requirements for its resale.

State Revenues: General fund revenues could increase marginally for District Court cases resulting in monetary penalties, as fines for subsequent offenses exceed penalties under current law regulating junk dealers and scrap metal transactions.

State Expenditures: Licensing of junk dealers and scrap metal processors is not a State function; however, State expenditures would increase for those counties or municipal corporations that designate the Department of State Police as the primary law enforcement unit for that jurisdiction. The State Police currently provides primary law enforcement in Carroll County through the Resident Trooper Program, though the county is currently undergoing a transition to a county police force. Calvert and Frederick counties have limited participation in the program. In these circumstances, it is anticipated that the new requirements would not require additional resources.

Incarceration Expenditures

General fund expenditures could increase as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction facilities. The number of people convicted of this proposed crime is expected to be minimal.

In general, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their per diem incarceration costs once a person has served 90 days. State per diem reimbursements for fiscal 2009 are estimated to range from \$19 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to a term in Baltimore City are generally incarcerated in a DOC facility. The current DOC average total cost per inmate, including overhead, is estimated at \$2,600 per month; however, this bill alone should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate, including medical care and variable costs, is \$526 per month. Excluding medical care, the average variable cost is \$148 per month.

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

Local Expenditures: Local jurisdictions that are not currently subject to statewide licensing requirements may experience minimal increases in expenditures related to enforcement and retention of records; however, the local governments contacted for this

fiscal note reported that the bill's requirements would require no additional expenditures or could be handled with existing resources.

Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

Small Business Effect: Junk dealers and scrap metal processors would be subject to additional recordkeeping requirements. The impact of the bill on small business would vary depending on the extent of current regulation.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): City of College Park, Prince George's County, Harford County, Carroll County, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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