

SENATE BILL 897

C2

11r2857

By: **Senator Dyson**

Introduced and read first time: February 21, 2011

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Junk Dealers and Scrap Metal Processors – Required Records and Hold**
3 **Period**

4 FOR the purpose of requiring certain junk dealers and scrap metal processors to
5 submit certain photographs of certain individuals to certain law enforcement
6 units under certain circumstances; requiring certain junk dealers and scrap
7 metal processors to hold certain items of junk and scrap metal for a certain
8 period of time; and generally relating to junk dealers and scrap metal
9 processors.

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

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

17 **Article – Business Regulation**

18 17–1011.

19 (a) (1) This section applies to all junk dealers and scrap metal processors
20 doing business in the State, including nonresident junk dealers, nonresident scrap
21 metal processors, and junk dealers and scrap metal processors who are residents of the
22 counties listed in § 17–1002(a) of this subtitle.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) conducts business as a licensed junk dealer or scrap metal
2 processor;

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

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

7 (3) This section does not apply to:

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

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

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

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

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

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

22 (2) The record shall state:

23 (i) the date and time of purchase;

24 (ii) a description of the junk or scrap metal purchased,
25 including:

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

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

29 (iii) the amount paid or other consideration for the junk or scrap
30 metal;

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

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

5 (vi) the signature of:

6 1. the individual from whom the junk or scrap metal is
7 acquired; and

8 2. the junk dealer, scrap metal processor, or employee
9 who accepted the junk or scrap metal; and

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

12 1. the date of birth and driver's license number of the
13 individual; or

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

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

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

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

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

30 1. the date and time of purchase;

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

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

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

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

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

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

10 8. an electronic scan or photocopy of the valid
11 State-issued photo ID under item 7 of this subparagraph; **AND**

12 **9. A DIGITAL PHOTOGRAPH, TAKEN AT THE TIME**
13 **THE JUNK OR SCRAP METAL IS ACQUIRED, OF THE INDIVIDUAL FROM WHOM**
14 **THE JUNK OR SCRAP METAL IS ACQUIRED.**

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

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

21 (i) shall be kept confidential;

22 (ii) is not a public record; and

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

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

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

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

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

3 2. hold written records; or

4 3. submit records by facsimile or by mail.

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

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

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

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

16 (2) A State junk licensee may not purchase a catalytic converter from
17 an individual unless the individual, at the time of purchase, provides identification as:

18 (i) a licensed automotive dismantler and recycler or scrap metal
19 processor; or

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

21 (3) A State junk licensee may not purchase a cemetery urn, grave
22 marker, or any other item listed under § 17–1001(e)(1)(ii) of this subtitle from an
23 individual unless the individual, at the time of purchase, provides appropriate
24 authorization from a relevant business or unit of federal, State, or local government
25 specifically authorizing the individual to conduct the transaction.

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

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

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

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

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

4 1. the name and business address of the commercial
5 enterprise; and

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

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

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

15 (g) **(1) A JUNK DEALER OR SCRAP METAL PROCESSOR SHALL HOLD**
16 **ANY ITEMS OF JUNK OR SCRAP METAL FOR 3 BUSINESS DAYS AFTER A REPORT**
17 **OF ACQUISITION IS MADE UNDER SUBSECTION (B) OF THIS SECTION.**

18 **[(1)] (2)** If a State or local law enforcement agency has reasonable
19 cause to believe that junk or scrap metal that is in the possession of a junk dealer or
20 scrap metal processor is stolen, the law enforcement agency may issue a written hold
21 notice.

22 **[(2)] (3)** The written hold notice shall:

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

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

27 (iii) specify the time period for the hold, not to exceed 15 days,
28 **INCLUDING THE 3-DAY HOLD REQUIRED UNDER PARAGRAPH (1) OF THIS**
29 **SUBSECTION.**

30 **[(3)] (4)** On receipt of a written hold notice from a law enforcement
31 agency, a junk dealer or scrap metal processor may not process or remove from the
32 junk dealer's or scrap metal processor's place of business before the end of the hold
33 period any items of junk or scrap metal identified in the hold notice, unless the item is
34 released by the law enforcement agency or by court order.

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

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

6 (1) a fine not exceeding \$500 for a first offense; and

7 (2) a fine not exceeding \$5,000 or imprisonment not exceeding 1 year
8 or both for a subsequent offense.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2011.