



**Am. Sub. H.B. 150**  
126th General Assembly  
(As Passed by the House)

**Reps. Gibbs, McGregor, Ujvagi, C. Evans, Kearns, Williams, Hagan, Reidelbach, Collier, Distel, Miller, Cassell, Schaffer, Barrett, Blessing, Chandler, Combs, Schneider, D. Stewart, Willamowski**

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**BILL SUMMARY**

- Requires the chief executive officer of the municipality or the county auditor of the county in which a licensee's junk yard is located to suspend the licensee's license for 90 days if the owner fails to make required changes or improvements.
- Permits a licensee to appeal the suspension or have the suspension removed after the licensee complies with the law.
- Permits a licensee to sell junk while the licensee's license is suspended.
- Prohibits a licensee from accepting junk while the licensee's license is suspended.
- Requires the municipality's chief executive officer or the county auditor to revoke the licensee's license if the licensee fails to make the required changes or improvements during the 90-day suspension.
- Increases the tax imposed on an owner from \$20 for each day the violation continues to \$100 for each day after revocation that the violation continues.

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**CONTENT AND OPERATION**

**Inspections and violations under current law**

Under current law, twice annually the sheriff of each county, or, if the sheriff so designates, a township police officer or constable, and the chief of police of each municipal corporation must inspect every junk yard that is located within

the sheriff's or police chief's jurisdiction and for which a license has been issued under the Secondhand Dealers and Junk Yards Law (R.C. Chapter 4737.) to obtain information with regard to whether the licensee's activity has been and is being conducted in accordance with that law. Whenever it is determined upon any semi-annual inspection that a junk yard is not being conducted in accordance with the requirements of the Secondhand Dealers and Junk Yards Law, the sheriff of the county, township police officer or constable, or the chief of police of the municipal corporation within whose jurisdiction the junk yard is located, must immediately notify the junk yard owner of such fact. The notice must be sent to the owner by registered mail, and must detail the areas that are not in conformity with the requirements of the Secondhand Dealers and Junk Yards Law.

Any junk yard owner who receives this notice must, within 60 days after the mailing of the notice, undertake and complete such changes or improvements as are necessary to conform the junk yard to the Secondhand Dealers and Junk Yards Law. At the expiration of the 60-day period, the sheriff, township police officer or constable, or the chief of police must make a further inspection of the junk yard, and if the required changes or improvements have not been made, the junk yard owner is subject to a tax of \$20 for each day the violation continues. (Sec. 4737.10.) Additionally, under current law, whoever violates the Secondhand Dealers and Junk Yards Law is fined not less than \$25 nor more than \$1,000 and the costs of prosecution. (Sec. 4737.99.)

### **License suspension and revocation under the bill**

Under the bill, if the inspection reveals that the required changes have not been made, the sheriff, township police officer or constable, or the chief of the police must send notice of that noncompliance to the chief executive officer of the municipality or the county auditor of the county in which the licensee's junk yard is located. After receiving that notice, the chief executive officer or county auditor, as appropriate, must suspend the owner's license for 90 days. While the owner's license is suspended, the bill requires the owner to undertake and complete such changes or improvements necessary to conform the junk yard to the Secondhand Dealers and Junk Yards Law.

The bill permits an owner whose license is suspended to appeal the suspension in accordance with the existing law that governs appeals from orders of administrative officers and agencies (R.C. Chapter 2506.). Additionally, the bill allows an owner whose license is suspended to apply to the sheriff, township police officer or constable, or the chief of the police to have the junk yard inspected at any time during the 90-day suspension. If, after the inspection, the sheriff, township police officer or constable, or the chief of the police determines that the junk yard conforms to the Secondhand Dealers and Junk Yards Law, the sheriff, township police officer or constable, or the chief of the police, as

appropriate, must send notice of that compliance to the chief executive officer of the municipality or the county auditor of the county in which the licensee's junk yard is located. After receiving the notice of compliance, the chief executive officer or the county auditor, as appropriate, must remove the suspension and reinstate the owner's license.

The bill permits the owner to sell junk while the owner's license is suspended. A licensee is prohibited, however, from accepting junk for future resale during the time that the licensee's license is suspended. Whoever violates this prohibition is guilty of a fourth-degree misdemeanor.<sup>1</sup> (Secs. 4737.10(D), (E), and (F) and 4737.99(B).)

If an owner's license has not already been reinstated at the expiration of the 90-day suspension, the bill requires the sheriff, township police officer or constable, or the chief of police to make a further inspection of the junk yard. If the owner has not made the required changes or improvements, the sheriff, township police officer or constable, or the chief of police must send notice of that noncompliance to the chief executive officer of the municipality or the county auditor of the county in which the licensee's junk yard is located. After receiving that notice, the chief executive officer or county auditor then must revoke the owner's license in accordance with the procedures specified in continuing law, which allow for license revocation after reasonable notice and an opportunity to be heard.<sup>2</sup> Under the bill, in addition to having the licensee's license revoked, the owner of the junk yard is subject to an increased tax of \$100 per day after revocation that the violation continues. (Sec. 4737.10(G).)

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<sup>1</sup> A fourth-degree misdemeanor may result in a possible jail term of not more than 30 days, a possible conventional fine of not more than \$250, and other possible sanctions (R.C. 2929.24 to 2929.28, not in the bill).

<sup>2</sup> Continuing law permits the chief executive officer of the municipality or the county auditor of the county in which the licensee's junk yard is located to revoke a licensee's license, after reasonable notice and opportunity to be heard, for any violation of the Secondhand Dealers and Junk Yards Law, by the licensee or by any of the licensee's officers, agents, or employees. Whenever a license has been revoked, the chief executive officer of the municipality or the county auditor must not issue another license to such licensee, to the husband or wife of such licensee, or to any partnership or corporation of which the licensee is an officer or member, until such licensee complies with the Secondhand Dealers and Junk Yards Law. (R.C. 4737.07, not in the bill.)

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## HISTORY

ACTION	DATE
Introduced	03-24-05
Reported, H. Commerce & Labor	10-19-05
Passed House (94-2)	10-26-05

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