



Sub. H.B. 150*

126th General Assembly

(As Reported by S. Insurance, Commerce, and Labor)

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

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, upon receipt of an order to suspend issued by the appropriate law enforcement official, 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, upon receipt of an order to suspend issued by the appropriate law enforcement official, 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.

** This analysis was prepared before the report of the Senate Insurance, Commerce, and Labor Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Requires a scrap metal processor who receives a motor vehicle from the owner to keep the record of the cancellation for three years, including a copy of the canceled title and, if the seller of the motor vehicle is not the titled owner, requires that the record also include specified identifying information about the seller.
- Requires a scrap metal processor to make a record of a cancellation available to any requesting law enforcement agency during the scrap metal processor's normal business hours.
- Allows specified law enforcement officials to relinquish jurisdiction over abandoned motor vehicles to the owner of the storage place to which the vehicle is ordered to be moved.

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 along with an order to suspend the owner's license 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 and order, 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 along with an order to remove the suspension and reinstate the owner's license 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 of compliance and order, 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.¹ (Secs. 4737.10(D), (E), and (F) and 4737.99(B).)

¹ 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).

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 along with an order to suspend the owner's license 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 and order, 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.² 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).)

Scrap metal processor record requirement

Under current law, a scrap metal processor who receives a motor vehicle from the owner described on the certificate of title must, within ten days, mark the certificate *"TO BE CANCELED,"* keep a record of the cancellation, and forward the certificate to the clerk of the court who issued it. The clerk must notify the registrar of motor vehicles of that cancellation.

The bill requires a scrap metal processor to keep the record of the cancellation for three years after creating the record. It also requires that the record include a copy of the canceled title, and if the seller of the motor vehicle is not the titled owner, the record also must include all of the following information about the seller:

- (1) The seller's name and address;
- (2) An identification number from the seller's driver's license, military identification, or other state issued license;

² *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.)*

- (3) A physical description of the seller;
- (4) The seller's expenditures for the motor vehicle.

The bill further requires a scrap metal processor to make a record of a cancellation available to any requesting law enforcement agency during the scrap metal processor's normal business hours. (Sec. 4738.16.)

Towing and storage of abandoned motor vehicles

Currently, the sheriff of a county or chief of police of a municipal corporation, township, or township police district, within the sheriff's or chief's respective territorial jurisdiction, or a state highway patrol trooper, may order into storage any motor vehicle that comes into the possession of the sheriff, chief of police, or state highway patrol trooper as a result of the performance of the sheriff's, chief's, or trooper's duties or that has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for 48 hours or longer without notification to the sheriff or chief of police of the reasons for leaving the motor vehicle in such place. However, when such a motor vehicle constitutes an obstruction to traffic, it may be ordered into storage immediately. The sheriff or chief of police must designate the place of storage of any motor vehicle so ordered removed.

The bill specifies that at the time a motor vehicle is ordered into storage, the sheriff, chief of police, or state highway patrol trooper may relinquish jurisdiction over the vehicle to the owner of the place of storage. (Sec. 4513.61.)

HISTORY

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

h0150-rs-126.doc/kl

