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Bill Analysis
Legislative Service Commission

S.B. 171

127th General Assembly
(As Introduced)

Sens. Stivers, Jacobson, Schuring, Schuler, Mumper

BILL SUMMARY

- Establishes record-keeping requirements for scrap metal dealers separate from the record-keeping requirements for dealers in other types of secondhand goods.
- Establishes additional requirements that a scrap metal dealer must comply with regarding special procedures articles as defined in the bill.
- Prohibits a scrap metal dealer from purchasing or receiving any articles from a person who refuses to show the dealer a current and valid form of identification that includes a photograph of that person.
- Prohibits a scrap metal dealer from purchasing or receiving articles from any person the dealer knows is a thief or receiver of stolen property.
- Prohibits any scrap metal dealer from purchasing or receiving any special procedures articles from any person who is under 18 years of age.
- Requires a scrap metal dealer to post a notice in a conspicuous place on the dealer's premises notifying persons who may wish to transact business with the dealer of the penalties applicable to any person who takes specified actions with the intent to deceive.
- Specifies that the bill does not prevent the legislative authority of a municipal corporation from making further and additional regulations regarding scrap metal dealers not in conflict with the bill.
- Requires a dealer in specified secondhand goods to obtain a driver's license number, military identification number, or other identification number found on any other government-issued identification card

belonging to the person from whom the dealer purchases or receives the goods.

- Makes the identification number requirements that a licensed pawnbroker must obtain under the Pawnbroker Law uniform and requires a licensed pawnbroker to obtain a person's driver's license number, military identification number, or other identification number found on any other government-issued identification card when applicable.

CONTENT AND OPERATION

Overview of the Secondhand Dealers and Junk Yards Law

The Secondhand Dealers and Junk Yards Law (R.C. Chapter 4737.) places the following duties on persons subject to the portion of the law governing the sale and purchase of specified secondhand goods:

(1) A dealer in secondhand articles of any kind, scrap iron, old metal, canvas, rope, branded bottles, junk or lead pipe, except plow irons, old stoves, and furniture must: (a) keep a separate book, open to inspection by any law enforcement officer, written in English, (b) record in this book, at the time of the purchase or exchange of articles, a description of the articles, the name, description, and residence of the person from whom the articles were purchased and received, and the day and hour when the purchase or exchange was made, (c) consecutively number each entry in that book, commencing with number one (sec. 4737.01(A)).

(2) Any person, prior to purchasing any secondhand article of furniture or secondhand electrical or gas appliance or equipment for the purpose of resale to the general public, must demand to examine the seller's driver's or commercial driver's license or state identification card and one additional type of card typically used for identification purposes (sec. 4737.01(B)).

(3) Every dealer in scrap iron, metal, and waste materials also must (a) maintain a book of records, in which the dealer must keep an accurate and complete record of all articles purchased or received by the dealer in the course of the dealer's daily business, (b) include in the records the name, description, and residence of the person from whom the articles were purchased or received and the date and hour when such purchases or exchanges were made, and (c) keep those records open for inspection by the representative of any law enforcement agency at all business hours (sec. 4737.04).

(4) A dealer must hold all journal brasses and other railroad metals other than purchases and sales concerning railroad scrap metal, for a period of 30 days after being purchased or acquired (sec. 4737.04).

The Secondhand Dealers and Junk Yards Law prohibits any person from purchasing or receiving by sale, barter, exchange, or otherwise, specified articles, from a minor or apprentice, knowing or having reason to believe that the person is a minor or apprentice, or from any person between the hours of 9 p.m. and 7 a.m. (sec. 4737.03, not in the bill). The provisions of the Secondhand Dealers and Junk Yards Law governing secondhand goods do not apply to the business of purchasing articles that are made of or contain gold, silver, platinum, or other precious metals or jewels (sec. 4737.011, not in the bill).

The Secondhand Dealers and Junk Yards Law also generally requires an operator of a junk yard to obtain a license from the appropriate local authority unless an exception applies. A "junk yard" under continuing law is an establishment or place of business that is maintained or operated for the purpose of storing, keeping, buying, or selling junk, and includes scrap metal processing facilities that are located within 1,000 feet of the nearest edge of the right of way of a highway in the interstate or primary system. "Junk," under continuing law, means old or scrap copper, brass, rope, rags, trash, waste, batteries, paper, rubber, iron, steel, and other old or scrap ferrous or nonferrous materials, but does not include scrap tires as defined under continuing law. (Sec. 4737.05, not in the bill.)

Generally, 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, not in the bill).

Purchase or sale of scrap metal in general

The bill removes scrap iron, old metal, and junk or lead pipe from the list of items to which the requirements specified in (1) under "**Overview of the Secondhand Dealers and Junk Yards Law**," above apply (sec. 4737.01(A)). Therefore, a secondhand dealer must comply only with the requirements specified in (3) under "**Overview of the Secondhand Dealers and Junk Yards Law**," above with respect to these items, and the bill modifies those requirements. Under the bill, every scrap metal dealer¹ must maintain a record book or electronic file, as added by the bill, in which the dealer must keep an accurate and complete record of all articles purchased or received by the dealer in the course of the dealer's daily business (sec. 4737.04(B)). On and after the bill's effective date, every entry in the

¹ A "scrap metal dealer," under the bill, is a person who purchases or receives scrap iron, metal, and waste materials (sec. 4737.04(A)(1)).

record book or electronic file must be numbered consecutively, commencing with number one. The bill requires every dealer to maintain the record for each article purchased or received for a minimum period of six months after the date the dealer purchases or receives the article. (Sec. 4737.04(B).)

The bill expands the list of the information that a scrap metal dealer must maintain in the dealer's records. In addition to the information described in (3)(b) under "**Overview of the Secondhand Dealers and Junk Yards Law**" above, the bill requires a scrap metal dealer to obtain the person's driver's license number, military identification number, or other identification number found on any other government-issued identification card. The bill also requires the dealer to record the time, rather than the hour under current law, when the purchases or exchange was made. (Sec. 4737.04(B)(1) and (2).) The records also must include a full and accurate description of each article purchased or received by the dealer that includes identifying letters or marks written, inscribed, or otherwise included on the article and the name and maker of the article if known. For the purchase or receipt of recyclable materials that are not special procedures articles (see "**Special procedures articles**," below), use of codes for recyclable materials as specified by the Institute for Scrap Recycling Industries or its successor organization is sufficient as a description of the articles purchased or received by a scrap metal dealer (see "**Definitions**," below). (Sec. 4737.04(B)(3) and (C).) Lastly, if the seller or provider of the articles arrives at a dealer's place of business in a motor vehicle, the dealer must include the license plate number of that motor vehicle along with the state that issued the license plate in the records (sec. 4737.04(B)(4)).

In addition to keeping the records open for inspection by the representative of any law enforcement agency during all business hours, the bill requires a dealer to also keep those records open for the Director of Public Safety or the Director's designated representative. Under the bill, a scrap metal dealer must provide a copy of those records to any law enforcement agency who requests the records or to the Director or Director's representative, upon request. Records submitted to any law enforcement agency pursuant to this section are not considered public records for purposes of the Public Records Law (R.C. 149.43, not in the bill). Any person, however, may request such records, but the law enforcement agency must redact information that reveals the name of the seller of any article and the price the dealer paid for any article the dealer purchased or the estimated value of any article the dealer received. (Sec. 4737.04(D).)

Prohibitions

The bill prohibits a scrap metal dealer from purchasing or receiving any articles from a person who refuses to show the dealer a current and valid form of identification that includes a photograph of that person. Additionally, the bill

prohibits a scrap metal dealer from purchasing or receiving articles from any person the dealer knows is a thief or receiver of stolen property. The law enforcement agency that serves the jurisdiction in which the dealer is located must provide a list, as that agency determines appropriate, of the names and descriptions of persons known to be or who are suspected to be thieves or receivers of stolen property. (Sec. 4737.04(F).) Whoever violates these prohibitions, under continuing law unchanged by the bill, is fined not less than \$25 nor more than \$1,000 and the costs of prosecution (sec. 4737.99, not in the bill).

Notice

The bill requires every scrap metal dealer to post a notice in a conspicuous place on the dealer's premises notifying persons who may wish to transact business with the dealer of the penalties applicable to any person who, with the intent to deceive, does any of the following:

- (1) Provides a false form of identification of the person to the dealer;
- (2) Provides any other false information to the dealer in connection with the dealer's duty to maintain the records described above;
- (3) Commits a theft offense (sec. 4737.04(G)).

Special procedures articles

The bill specifies additional requirements a scrap metal dealer must follow for special procedures articles. "Special procedures article" means all of the following:

- Air conditioners;
- Beer kegs;
- Cable or other wire that is wound upon a spool or reel;
- Electronic devices (see "**Definitions**," below);
- Furnaces;
- Grave markers, sculptures, plaques, and vases, the appearance of which suggest that the articles have been obtained from a cemetery;
- Guard rails for bridges, highways, and roads; highway and street signs; street light poles and fixtures; manhole covers, water meter covers, and other similar types of utility access covers; traffic directional and

control signs and light signals, metal marked with the name of a political subdivision of the state, and other articles that are purchased and installed for use upon authorization of the state or any political subdivision of the state;

- Historical markers;
- Hot water heaters;
- Motor vehicles, as defined under continuing law;
- Refrigerators, freezers, stoves, clothes washers or dryers (sec. 4737.04(A)(2)).

A scrap metal dealer who purchases or receives special procedures articles must comply with the requirements specified under **'Purchase or sale of scrap metal in general'** above with respect to each special procedures article and do all of the following with respect to each special procedures article:

- (1) Take photographs of each article from at least three perspectives to obtain photographs of the article that depict various sides of the article;
- (2) If payment is rendered for the articles, issue a check for the purchase of the articles;
- (3) Withhold payment for the purchase of the articles for a period of two days after the day the articles are purchased;
- (4) Make records describing articles purchased or received available for inspection to business entities for a period of six months after the date of purchase or receipt of the articles, except that the name of the person from whom the articles are purchased or received and the amount paid for the articles cannot be made available for such inspection. (Sec. 4737.041.)

Additionally, the bill prohibits any scrap metal dealer from purchasing or receiving any special procedures articles from any person who is under 18 years of age (sec. 4737.04(F)). Whoever violates this prohibition, under continuing law unchanged by the bill, is fined not less than \$25 nor more than \$1,000 and the costs of prosecution (sec. 4737.99, not in the bill).

Exceptions

The bill exempts the purchase of an article the acquisition of which is governed by the procedures described under **'Purchase or sale of scrap metal in general'** and **'Special procedures articles'** above from the requirements for the

purchase of any secondhand article of furniture or secondhand electrical or gas appliance or equipment for the purpose of resale to the general public as specified in (2) under "**Overview of the Secondhand Dealers and Junk Yards Law**" above (sec. 4737.01(B)).

Under the bill, the requirements specified under "**Purchase or sale of scrap metal in general**" and "**Special procedures articles**" above do not apply with respect to any of the following:

- (1) The donation of articles to nonprofit organizations or to any other person, on the condition that the person donating the articles receives no payment or any other valuable consideration in exchange for or due to donating the articles;
- (2) The sale of common recycled matter (see "**Definitions**," below);
- (3) Industrial sales (see "**Definitions**," below) (sec. 4737.042).

Authority of municipal corporations

The bill states that the requirements and prohibitions specified under "**Purchase or sale of scrap metal in general**" and "**Special procedures articles**" above do not prevent the legislative authority of a municipal corporation from making further and additional regulations not in conflict with the bill. The bill states that the bill does not modify or repeal any regulations adopted by a municipal corporation that are in force on the bill's effective date that are not in conflict with the bill (sec. 4737.043).

Identification requirements

As described in (1) under "**Overview of the Secondhand Dealers and Junk Yards Law**" above, a dealer in specified secondhand goods must obtain certain information about the person from whom the dealer receives or purchases the goods, including the person's name, description, and residence (sec. 4737.01(A)). Under the Pawnbrokers Law (R.C. Chapter 4727.), a licensed pawnbroker must include on the appropriate form for each pawn or purchase a driver's license number, military identification number, or other personal identification number in addition to other information specified under continuing law (sec. 4727.08(B)(6)). If a person other than a pledgor redeems an item pledged by the pledgor, a licensed pawnbroker must record that person's driver's license number or other personal identification number in addition to other information specified in continuing law. Additionally, in the event a pledgor sells, transfers, or assigns a pledge, a licensed pawnbroker must record the driver's license number and other information regarding the person who is redeeming the pledge. (Sec. 4727.11(B) and (D).)

The bill makes the types of identification numbers that a licensed pawnbroker must obtain uniform by requiring a licensed pawnbroker to obtain a person's driver's license number, military identification number, or other identification number found on any other government-issued identification card. The bill also requires a secondhand dealer to obtain the same types of identification numbers as a licensed pawnbroker in addition to the information the secondhand dealer must obtain under current law. (Secs. 4727.08, 4727.11, and 4737.01.)

Definitions

The bill defines the following terms:

(1) "Electronic device" means any device relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities but does not include any common consumer household electronic device.

(2) "Common consumer household electronic device" means a device powered by electricity that is commonly used in a personal residence and is not designed for commercial use and includes, but is not limited to, garage door openers; answering machines; blenders; cassette players and recorders; record players; compact disc players and recorders; calculators; clocks; coffee or tea makers; copy machines; digital video disc players and recorders; fans, hairdryers; hot pots; lamps and light fixtures; microwave ovens; paper shredders; personal computers; printers; scanners; fax machines; security system components; stereo components; televisions; telephones; toasters; toaster ovens; vacuums and other floor cleaning or care equipment; videocassette players and recorders; can openers, griddles, grills, knives, slicers, slow-cookers, and other similar kitchen appliances; razors, toothbrushes, curling or straightening irons, and other similar personal care and hygiene items; drills, sanders, saws, and other similar tools; blowers, chain saws, hedge clippers, mowers, pressure washers, trimmers, and other similar workshop lawn and garden tools.

(3) "Common recycled matter" means glass bottles and other glass containers, plastic bottles and other plastic containers, newspapers, and magazines.

(4) "Industrial sales" means sales transacted between a scrap metal dealer and a person whose primary business is to supply scrap metal dealers with ferrous and nonferrous metal in bulk quantities on a regular basis.

(5) "Recyclable materials" means items for which a code is designated by the Institute for Scrap Recycling Industries or its successor organization. (Sec. 4737.04(A).)

HISTORY

ACTION

DATE

Introduced

05-15-07

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