Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. Sub. S.B. 193 of the 129th G.A. **Date**: June 12, 2012

Status: As Passed by the House **Sponsor**: Sen. Seitz

Local Impact Statement Procedure Required: No

Contents: Makes changes to the law governing scrap metal dealers and bulk merchandise container dealers

State Fiscal Highlights

- The Department of Public Safety will incur one-time costs of between $500,000 and $600,000 to implement the registry for scrap metal dealers and bulk merchandise container dealers, and $180,000 in annual costs to maintain the registry. To offset these costs, the bill establishes an initial registration fee of $200, and an annual renewal fee of $150, for these dealers.
- The state will receive a small share of court cost revenue from any penalties that are imposed as a result of the bill. The proceeds will be deposited into the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

- The bill applies a range of penalties, from a first degree misdemeanor to a fourth degree felony, to dealers who fail to comply with the requirements of the bill. The applicable penalty depends on the number of times a scrap metal dealer or bulk merchandise container dealer has violated these requirements.
- There could be a small number of new cases involving dealers that violate the requirements in this bill. Any new costs that county and municipal jurisdictions incur will be offset to some degree by additional court costs, filing fees, and fines imposed on violators.
- The bill includes additional requirements for local law enforcement in distributing lists of known scrap metal thieves to dealers, while also requiring the lists to be provided to the Department of Public Safety for inclusion in the registry. This may result in a minimal increase in costs for local law enforcement.

Detailed Fiscal Analysis

The bill directs the Department of Public Safety (DPS) to create and maintain a registry of dealers who purchase or receive two types of items: (1) scrap metals, and (2) plastic or wooden bulk merchandise containers. Accordingly, the bill requires that scrap metal and bulk merchandise container dealers register with DPS and submit records to the registry on a daily basis. Overall, it is estimated that DPS will incur costs of approximately $500,000 to $600,000 in fiscal years 2013 and 2014, and ongoing operating expenses of $180,000 annually to operate the registry. Revenue to the Security, Investigations, and Policing Fund (Fund 8400) from fees and possible donations would at least partially offset both the one-time implementation and the ongoing maintenance costs incurred by DPS. At the local level, political subdivisions may incur additional costs for prosecuting and adjudicating new court cases related to dealers that do not comply with the new requirements. Local law enforcement could also incur some administrative costs for providing the list of known scrap metal thieves to dealers in a searchable electronic format. More detail on the fiscal effects of the bill is provided below.

Department of Public Safety

The bill requires DPS to develop and maintain as a registry a secure database for use by law enforcement agencies. The registry is to include information submitted by scrap metal and bulk merchandise container dealers, including daily transaction data. According to DPS, the agency will incur approximately $500,000 to $600,000 in one-time costs to create the registry and approximately $180,000 in annual costs to maintain it. In order to offset these increases in expenditures, the bill establishes an initial registration fee of $200 for scrap metal dealers and bulk merchandise container dealers, to be deposited to the credit of the Security, Investigations, and Policing Fund (Fund 8400) used by DPS. All existing scrap metal dealers and bulk merchandise container dealers in the state are required to complete their initial registration by January 1, 2013. After the initial registration fee, scrap metal dealers and bulk merchandise container dealers are required to pay an annual registration fee of $150.

The Institute of Scrap Recycling Industries (ISRI) estimates that there are approximately 1,000 scrap metal dealers in the state, with 225 of those dealers being ISRI members. The number of bulk merchandise container dealers is currently unknown. Given this, the initial gain in revenue to Fund 8400 could be up to $200,000 (1,000 x $200 initial registration fee), or possibly higher depending on the number of bulk merchandise container dealers. Likewise, the annual renewal fees will total up to $150,000 or higher.

The bill allows DPS to accept donations to Fund 8400 for purposes of assisting with the implementation costs of the bill. Depending on the amount of any donations, this provision may result in a one-time gain in revenues for Fund 8400. In addition, the

bill directs half of the impound fees collected from any motor vehicles used in the theft or illegal transportation of metal to Fund 8400. Depending on the number of vehicles impounded as a result of the provisions of the bill, this will result in a gain in revenues to the fund.

Other changes to the Scrap Metal Dealer Law

In addition to new registration and reporting requirements, the bill makes further changes to the scrap metal dealer law, as it pertains to both scrap metal dealers and local law enforcement. Regarding changes that apply to scrap metal dealers, the bill requires that additional information be part of the scrap metal record, including a photograph of the person from whom the articles were purchased or received, and the weight of the articles as determined by a licensed commercial scale. The bill specifically prohibits dealers from purchasing or receiving any articles from a person who refuses to allow their photograph to be taken.

The bill also includes the following three scrap metal items as new special purchase articles: (1) certain railroad material, (2) metal trays, merchandise containers, or similar containers used for bulk transport and storage of milk, baked goods, eggs, or bottled beverage drinks, and (3) "burnt wire" material. Additionally, the bill prohibits scrap metal dealers from purchasing or receiving beer kegs marked with a company name or logo except from the beer manufacturer or an agent authorized to dispose of damaged kegs.

Finally, the bill increases the penalties for scrap metal dealers who do not comply with the new requirements. A first offense is a first degree misdemeanor carrying a maximum fine of $1,000 and up to six months in jail, a second offense raises the possible penalty to a fifth degree felony, and a third offense raises the possible penalty to a fourth degree felony, both of which carry the possibility of higher fines and longer jail stays. In addition, the bill requires that scrap metal dealers who fail to register with DPS or who purchase or receive special purchase articles illegally be subject to a fifth degree felony. ISRI estimates that only 20% of scrap metal dealers in Ohio are in compliance with current scrap metal dealer law; however, given the increased penalties in the bill, it could be supposed that dealers would be inclined to comply with the new requirements.

Overall, these changes may lead to additional court cases locally, but any increase in costs related to prosecuting and adjudicating new cases that result from the bill's changes could be at least somewhat offset through court cost and fine revenue. Fines would be deposited with the county in which the trial court is located. At the state level, the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020) would also receive a negligible amount of court cost revenue from any penalties imposed. For each misdemeanor, Fund 5DY0 receives $20, while Fund 4020 receives $9. Both funds receive $30 for each felony.

List of scrap metal and bulk merchandise container thieves

Current law requires local law enforcement to compile a list of known scrap metal thieves, and to distribute that list to scrap metal dealers in the jurisdiction, thereby prohibiting dealers from purchasing or receiving from people listed. The bill specifies that the list be a searchable, electronic, Microsoft word or Excel compatible list, includes listing bulk merchandise container thieves. In addition to scrap metal dealers, the bill requires local law enforcement to provide the list to bulk merchandise container dealers, as well as DPS for inclusion in the registry. These changes may lead to a minimal increase in administrative costs to the law enforcement agency for distributing the information accordingly.

Bulk merchandise containers

The bill essentially requires that bulk merchandise container dealers treat these purchased or received containers as they would special purchase articles under the scrap metal dealer law. As mentioned above, under the bill bulk merchandise container dealers must register with DPS and comply with reporting requirements in the same manner as scrap metal dealers. Unlike scrap metal dealers, bulk merchandise container dealers are not subject to reporting requirements under current law. However, regarding the purchase or receipt of wooden bulk merchandise containers, the reporting requirement in the bill applies only to dealers who receive more than nine wooden containers from a person at one time. As with the scrap metal dealer law changes, violations of these provisions may lead to some additional court cases.

Creation of joint select committee and advisory council

The bill designates that a joint select committee of the Senate and House of Representatives is to be created in 2021. The purpose of the committee is to study the effectiveness and the costs of complying with the bill, and the committee is directed to issue a report stating its conclusions. The bill also creates the Scrap Metal and Bulk Merchandise Container Registry Advisory Council, and appoints some members to the Council, while allowing the Director of DPS to appoint others as the Director determines necessary. The Council is to provide guidance and assistance to the Director in the development and implementation of the DPS registry. There is no direct fiscal effect to the state as a result of the creation and operation of either the committee or the Advisory Council.

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