

Legislative Analysis



SECOND HAND AND JUNK DEALERS

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House Bill 5694 (Substitute H-2)

Sponsor: Rep. Terry Brown

Committee: Commerce

Complete to 6-10-08

A SUMMARY OF HOUSE BILL 5694 AS REPORTED FROM COMMITTEE 6-3-08

The bill would amend Public Act 350 of 1917 (MCL 445.404), which regulates second hand dealers and junk dealers, to do the following:

**** Require a dealer to make a copy of the driver license, chauffeur license, or state identification card of a person from whom the dealer received or purchased an article and include it in the book or record the dealer must maintain on purchases and exchanges.**

Currently, the book or record must contain the operator or chauffeur license *number* or state identification card *number*, along with the name, description, fingerprint, registration plate number, and address of the customer. The bill would also allow the book or record to be an electronic record.

The dealer must make the records available to local law enforcement each week. The bill would also require the dealer to make available a copy of the required documentation (copy of the driver license, etc.) about the person from whom articles were purchased, in a manner acceptable to local law enforcement.

**** Increase the penalties for a dealer who buys or sells scrap metal knowing that it was stolen. A first offense would be, as now, a felony, but the penalty would be increased to imprisonment for not more than five years and/or a fine of up to \$5,000 (from the current penalty of imprisonment for not more than three years and/or a fine of up to \$2,000). A second or subsequent offense would be punishable by imprisonment for not more than five years and/or a fine of up to \$10,000. (There is currently no separate penalty for second or subsequent offenses.)**

**** Provisions that make it a separate felony to buy or sell stolen scrap metal unlawfully removed from a utility pole, telecommunication company property, government property, or utility property or jobsite would be eliminated.**

FISCAL IMPACT:

The bill would have no fiscal impact on the Department of Labor and Economic Growth. Making records available to local units of government electronically could result in some administrative cost savings for local units, to the extent local units have not already enacted ordinances allowing such information to be maintained and submitted electronically. (The City of Kalamazoo, for example, enacted an ordinance in January 2007 allowing electronic filing of records by secondhand junk dealers; see Kalamazoo City Code §24-6.)

The bill's fiscal impact on state and local correctional systems would depend on how it affected the severity of sentences imposed for commerce in stolen scrap metal. In 2005, the most recent year for which data are readily available, there were no sentences imposed for this offense. If offenders were sentenced to longer terms of probation or imprisonment in a state prison, the state could incur additional costs. If offenders were more likely to be given a jail term, affected counties could incur additional costs. Any increase in the collection of penal fine revenues could benefit local libraries, who are the constitutionally-designated recipients of those revenues.

BACKGROUND INFORMATION:

House Bill 5694 is one of three bills reported from the House Commerce Committee aimed at addressing the serious and growing problem of the theft of materials and objects made of valuable metals, such as copper. Industry and law enforcement representatives say that the prices of these commodities have been rising, leading to an increase in thefts and illegal sales. The other two bills reported by the Commerce Committee are House Bill 6181 and House Bill 6003.

House Bill 6181 would create a new act, the Nonferrous Metal Regulatory Act, to apply to purchasers of such metals as copper, brass, aluminum, bronze, lead, zinc, and nickel. It would require record-keeping for each transaction; specify acceptable methods of payment; prescribe the tagging and holding of certain items by dealers; and require the participation by dealers in an Internet-based database. The bill also would prohibit the sale of certain items unless the seller had specific written authorization to sell them. It also imposes new penalties.

The other bill, *House Bill 6003*, would require the Department of Labor and Economic Growth to create a model ordinance for the licensure of second hand dealers and junk dealers. The model ordinance would be designed for use by a county, city, or village that had not adopted or enacted an ordinance of its own. The ordinance would be applicable and have the force of law in a county, city, or village, unless the unit had adopted a substantially equivalent ordinance at least as strict.

POSITIONS:

The Department of Labor and Economic Growth (DLEG) has indicated support for House Bills 5694, 6003, and 6181. (6-3-08)

The Michigan Association of Broadcasters has indicated support for House Bills 5694, 6003, and 6181.

Verizon, Sprint, and AT&T all have indicated support for House Bills 5694, 6003, and 6181.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.