



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 720 (Substitute S-2 as reported)
Senate Bill 1114 (Substitute S-1 as reported)
Senate Bill 1358 (Substitute S-3 as reported)
Sponsor: Senator Buzz Thomas (S.B. 720)
 Senator Cameron S. Brown (S.B. 1114)
 Senator Alan Sanborn (S.B. 1358)
Committee: Economic Development and Regulatory Reform

CONTENT

Senate Bill 720 (S-2) would amend Public Act 350 of 1917, which regulates and provides for the licensure of second hand and junk dealers, to specify that the Act's local licensure requirements would not exempt a person purchasing or selling articles of nonferrous metals from compliance with the "Nonferrous Metal Regulatory Act" (proposed by Senate Bill 1358 (S-3)). The bill also would delete a provision under which a local license may not be issued to conduct a junk business in any residential community where 65% or more of the property owners within a radius of one city block of the contemplated junk business petition the issuing officer not to do so.

The bill is tie-barred to Senate Bill 1358.

Senate Bill 1114 (S-1) would amend the Michigan Penal Code to make a person who committed larceny by stealing nonferrous metal subject to the graduated penalties that apply to stealing such things as money, a bank note, a book of accounts for money or goods due, and a deed. Those penalties range from up to 93 days' imprisonment and/or a fine of up to \$500 or three times the value of the property stolen (if it has a value of less than \$200), to imprisonment for up to 10 years and/or a fine of up to \$15,000 or three times the value of the stolen property (if it has a value of \$20,000 or more, or if the value is \$1,000 or more but less than \$20,000 and the person has two or more prior convictions).

For nonferrous metal, "the value of the property stolen" would mean the replacement cost of the stolen nonferrous metal, the cost of repairing the damage caused by the larceny, or the sum of both of those amounts, whichever was greatest. "Nonferrous metal" would mean a metal that does not contain significant quantities of ferrous metal but contains copper, brass, platinum-based metals, aluminum, bronze, lead, zinc, nickel, or alloys of those metals.

The bill would take effect 90 days after its enactment and is tie-barred to Senate Bill 1358.

Senate Bill 1358 (S-3) would create the "Nonferrous Metal Regulatory Act" to establish requirements for dealers and sellers of nonferrous metals, and prescribe penalties and remedies for violations. The bill would require a dealer to do the following:

- Produce and maintain an accurate, legible record of each purchase transaction; maintain those records for at least one year; and keep them in a location that was readily accessible to law enforcement agencies for inspection during normal business hours and make the records available to law enforcement upon reasonable suspicion of a violation of the proposed Act.
- Tag and hold, for seven calendar days, any article containing nonferrous metal that was purchased from a seller and offered for purchase under certain circumstances that could suggest it was stolen.
- Register with or subscribe to an internet-based database available to dealers, law enforcement agencies, and the general public that listed and tracked thefts of nonferrous metal and articles containing nonferrous metals.
- Pay a seller by check, electronic transfer, ATM card or bar code, or other method capable of being traced from the dealer to the seller.

A seller would be required to do the following:

- Present the dealer with pictured ID (of a type listed in the bill) and allow the dealer to make a photocopy of it.
- Allow the dealer to make a thumbprint for identification and investigation purposes.
- Sign a statement indicating that seller owned or was authorized to sell the nonferrous metal.
- Attest to the lack of any criminal convictions involving the theft, conversion, or sale of nonferrous metals.

A violation of the requirement for a dealer to keep and maintain accurate, legible records for at least one year and make them available to law enforcement would be a misdemeanor punishable by a maximum fine of \$500 and/or up to 93 days' imprisonment. Buying or selling nonferrous metal articles, knowing that they were stolen, would be a felony punishable by up to five years' imprisonment and/or a maximum fine of \$5,000. A person who otherwise violated the proposed Act would be responsible for a State civil infraction and could be ordered to pay a civil fine of up to \$5,000.

A person could bring a private cause of action for monetary damages suffered from a violation of the Act by a seller, a dealer, or both. The court would have to award treble damages for the value of the nonferrous metal article stolen, and could award costs regarding any aspect of an action. "Value of the nonferrous metal article" would mean the greatest of: the replacement cost of the stolen article, the cost of repairing the damage caused by the larceny of the article, or the total of both.

The bill is tie-barred to Senate Bill 720.

MCL 445.401 & 445.402 (S.B. 720)
750.356 (S.B. 1114)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 720 (S-2) would likely have no impact on State revenue or expenditure. The bill potentially could change the distribution of revenue across local units by affecting the location of businesses regulated by the Act, because junk businesses could no longer be prohibited from locating in an area by the petition of local property owners.

Senate Bill 1114 S-1) would have an indeterminate fiscal impact on State and local government. In 2005, 371 offenders were convicted of felony larceny as their controlling sentence. There are no data indicating how many offenders were convicted of misdemeanor larceny. Depending on how much value the cost of repairing the damage caused by the

larceny of nonferrous metal would add, the bill could change the category of larceny under which offenders are charged. To the extent that the bill would result in increased incarceration time or increased sentences to jail, local governments would incur increased costs of incarceration in local facilities, which vary by county. To the extent that the bill would result in increased incarceration time or sentences to prison, the State would incur increased costs of incarceration in a State facility at an average annual cost of \$33,000. Additional penal fine revenue would benefit public libraries.

Senate Bill 1358 (S-3) would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many dealers would be convicted of violations relating to producing and maintaining records of purchase transactions as described in the bill, or how many people would be convicted of knowingly buying or selling stolen nonferrous metal articles. Local governments would incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$33,000. Additional civil and penal fine revenue would benefit public libraries.

Date Completed: 6-27-08

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