

## REQUIRE LICENSE FOR AUTOMATED RECYCLING KIOSKS

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**Senate Bill 916 as reported from committee w/o amendment**

Analysis available at  
<http://www.legislature.mi.gov>

**Sponsor: Sen. Mike Kowall**

**House Committee: Commerce and Trade**

*(Enacted as Public Act 329 of 2018)*

**Senate Committee: Commerce**

**Complete to 5-31-18**

**BRIEF SUMMARY:** Senate Bill 916 would amend Public Act 350 of 1917, the act that provides for licensing of second hand dealers and junk dealers, to require a second hand dealer that uses an automated recycling kiosk to obtain a license in the city, county, or village in which the kiosk is located.

**FISCAL IMPACT:** Senate Bill 916 would have an indeterminate fiscal impact on local units of government and no fiscal impact on state revenues. (See *Fiscal Information*, below.)

### **THE APPARENT PROBLEM:**

Michigan has two laws related to second hand sales: one regulates second hand dealers and junk dealers, and one regulates pawn shops. There is an emerging technology that doesn't fit squarely into either of these categories: automated kiosks at which people can recycle, and receive cash for, outdated and unwanted electronic devices. Reportedly, local governments across the state are regulating these kiosks in different manners. Legislation has been introduced to clarify that kiosks must be licensed as second hand dealers and to make updates to the law to reflect this new technology.

### **THE CONTENT OF THE BILL:**

Under the bill, a second hand dealer that uses an *automated recycling kiosk* to receive articles would be required obtain a license in the city, county, or village in which the kiosk is installed.

*Automated recycling kiosk* would mean an interactive device that meets all of the following:

- Is installed in a secure retail space.
- Has the following technological functions:
  - Verification of a seller's identity by remote examination of a government-issued identification card by a live representative during all hours of operation.
  - Secure storage of items accepted by the kiosk for recycling.
  - Capture and storage of images of the seller and the article purchased during the transaction.
  - Electronic reporting of all transactions to law enforcement.

The bill would revise the act's definition of "second hand dealer" or "junk dealer" to include a person that is engaged in the business of receiving tangible personal property for recycling by means of an automated recycling kiosk.

#### Kiosk License

Under the act, the mayor of a city or chief executive officer of a county or village can grant a person a license that authorizes that person to carry on the business of a second hand dealer or junk dealer. The bill would add to this provision that the license allows the person to transact business in that city, county, or village. Under the bill, for purposes of the license, a second hand dealer that uses an automated recycling kiosk to receive articles would be considered to be carrying on the business of a second hand dealer in the city, county, or village in which the kiosk is installed.

#### Kiosk Operations

Under the act, a city, village, or county is allowed to inspect the premises of a second hand dealer or junk dealer during normal business hours. Under the bill, this would include the place where an automated recycling kiosk is installed.

Under the act, a second hand dealer or junk dealer can only pay for an item by check or electronic payment system. Under the bill, if payment were made by an automated recycling kiosk, the second hand dealer could pay cash for the item.

Also under the act, items purchased by a second hand dealer must be retained, in an accessible place in the building where the articles are purchased and received, for at least 15 days before they may be disposed of. Under the bill, a second hand dealer that operated an automated recycling kiosk could store the articles acquired at the kiosk in a secure off-site location. These articles would have to be retained for 30 days and, upon request, would have to be returned to a law enforcement officer without cost.

The bill would make other changes which appear to be editorial in nature.

The bill would take effect 90 days after being enacted into law.

MCL 445.401 et seq.

#### ***HOUSE COMMITTEE ACTION:***

The House Committee on Commerce and Trade reported the Senate-passed version of the bill without amendment.

#### ***FISCAL INFORMATION:***

Senate Bill 916 would have an indeterminate fiscal impact on local units of government and no fiscal impact on state revenues. Information is not available on the number of persons that might be convicted under provisions of the bill. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation

supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

Otherwise, Senate Bill 916 would have no net fiscal impact on local revenues and no fiscal impact on state revenues. Under the provisions of the bill, the license fee established by the local government would be required to equal the costs associated with the issuance and administration of the license.

### ***ARGUMENTS:***

#### ***For:***

The bill provides clarity as to the regulation and licensing of automated recycling kiosks. These kiosks are an emerging technology that can be beneficial for consumers, businesses, and the environment. Consumers can dispose of unwanted electronics, businesses can purchase recycled materials, and the materials are saved from being disposed of in landfills. As the technology continues to improve, there should be statewide standards for implementation. The legislation contains the best practices for these kiosks—including those related to law enforcement and item retention—to ensure that they are safe and protecting the public.

### ***POSITIONS:***

A representative of the Michigan State Police indicated support for the bill. (5-22-18)

A representative of ecoATM testified in support of the bill. (5-22-18)

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