

SESSION OF 2011

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2312

As Amended by Senate Committee of the Whole

Brief*

HB 2312, as amended, would require registration of scrap metal dealers. On or after January 1, 2012, in order to purchase regulated scrap metal, a business would have to be registered for each place of business. The business would have to submit its application for registration to the city in which it is located, or if it is not located within the corporate limits of a city, to the board of county commissioners in the county in which it is located. Prior to granting registration to a scrap metal dealer, a board of county commissioners would be required to give written notice within ten days of registration or renewal to the clerk of the township where the applicant's business is located and to consider any advisory recommendations from the township's board filed within ten days of registration. The governing body of a city and the board of county commissioners would be required to provide written notice within ten days of registration to the sheriff, chief of police, or director of all law enforcement agencies in the county and to consider any advisory recommendations from law enforcement agencies. Pursuant to the bill, the initial registration fee would be not less than \$100 nor more than \$400 for each registration. The annual registration fee would be not less than \$25 nor more than \$50. Registration would be valid for ten years. Purchasing scrap metal without being registered would be a class A, nonperson misdemeanor.

The bill would include outlining: the requirements for filing an application for registration, the factors that would

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

prohibit registration, and circumstances allowing and requiring the board of county commissioners or the city's governing board to revoke registration.

The bill would change the property damage value, which would include either restoration costs or property value, whichever is greater. "Value" would be defined under the bill as the value of the property or the cost to restore the site of the theft.

Certain exempted transactions involving regulated scrap metal would no longer be exempt if they involved certain scrap metal.

Scrap metal dealers would be required to pay by check or via a system that identified the seller by photograph or videotape.

The bill also would modify the list of scrap metal property for which the seller must provide proof of authority to sell.

Background

In the House Committee on Corrections and Juvenile Justice, representatives of the City of Topeka, the Topeka Police Department, the Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, the Kansas Peace Officers' Association, and the Attorney General's Office appeared in support of the original HB 2312. The Committee also received written testimony in support of the bill from AT&T. A representative of a metal recycling business also presented neutral testimony. No opponents appeared at the hearing.

The House Committee amended the original bill by:

- Specifying that failure to obtain a scrap metal dealer license would be a class A, nonperson misdemeanor;

- Adding limited liability corporations to the list of entities ineligible for a license if persons associated with the entity would be ineligible;
- Deleting provisions that would have created penalties specific to theft of regulated scrap metal depending on the value of the metal;
- Further amending the definition of “value”; and
- Making it unlawful for a scrap metal dealer to:
 - Purchase wire or cable owned by a telephone, cable, electric, water, or other utility provider when the sheathing has been removed, making identification impossible; or
 - Use a form of payment other than those outlined in the bill to purchase more than \$35 worth of property, copper in any form for any amount, catalytic converters, and refrigeration condensing units and related parts.

The House Committee of the Whole amended the Committee’s amendments to HB 2312 by changing “limited liability corporation” to “limited liability company” in the section making limited liability corporations ineligible for a scrap metal dealer license if persons associated with the entity would be ineligible. Further, the House Committee of the Whole adopted an amendment that would allow a person under age 18 to obtain a scrap metal dealer license, but only if the minor’s parents also would be eligible for a license. Similarly, it adopted an exception allowing a scrap metal dealer to purchase or receive regulated scrap metal from a minor who is accompanied by a parent or guardian or who is a licensed scrap metal dealer.

The fiscal note on the original bill indicates that the precise fiscal impact of HB 2312 on cities and counties and on the Kansas Bureau of Investigation is not available.

The Attorney General indicates any costs could be absorbed within the existing budget.

The Kansas Sentencing Commission estimates an increase in annual convictions pursuant to HB 2312 as introduced of between four and six prison beds in FY 2012 and between six and 12 beds in FY 2021. As the number of male inmates already exceeds capacity, the bed impact of this bill in addition to the impact of other possible legislation is likely to require additional expenditures. *The FY 2012 Governor's Budget Report* includes \$2.5 million for contract prison beds and if construction is necessary, the Department of Corrections has identified two expansion projects: two high medium housing units at El Dorado Correctional Facility, with 512 beds, costing \$22.7 million for construction and \$9.3 million for operation; and one minimum security housing unit at Ellsworth Correctional Facility, with 100 beds, costing \$5.9 million for construction and \$1.8 million for operation.

Proponents testifying on HB 2312 as it passed the Senate Committee on Federal and State Affairs, included representatives from the City of Topeka and Advantage Recycling. A representative from the City of Topeka suggested amendments which were incorporated into the bill.

The Senate Committee on Federal and State Affairs amended the bill to: eliminate the requirement that scrap metal dealers must have a license; require such dealers to be registered to collect scrap metal; require scrap metal dealers to pay by a specific method; modify the list of scrap metal property for which the seller would have to provide proof of authority to sell; and not exempt certain scrap metal from transactions.

The Senate Committee of the Whole amended the bill by preventing scrap metal dealers under 18 from obtaining registration if the parents have committed a felony during which time the parents held a registration. Also the provision to deny registration to a person whose spouse would be ineligible for registration was stricken by the Senate Committee of the Whole.

The Senate Committee of the Whole increased the time period when county or city's are required to revoke an existing registration if the scrap metal dealer employs a person who has been convicted of a crime outlined in the bill. This time period was increased from 18 months to 24 months. A permanent revocation of a registration would be deleted if a person employed has within the preceding five years has been convicted of specific crimes.

An updated fiscal note reflecting amendments to the bill was not available.